

24/102/8609/46

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, ET AL.

Appellants

vs.

ROBERT W. MOCKARD, ET AL.

Appellees

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CASE NO. 86CG1262

(ZONING MATTER #B-86-303)

OPINION AND ORDER

This case came before the Court on February 11, 1987 on appeal from a decision rendered by the Baltimore County Board of Appeals. Petitioners below, Robert W. Mockard, et al., requested a zoning reclassification of property located at Harford Road and East Avenue from BL-CS-2 to BM-CS-2. The Board granted the reclassification for the specific purpose of expanding the existing used and new car dealership (Griffith Chrysler-Plymouth). Orders for Appeal were filed by three parties: Petitioners; People's Counsel for Baltimore County; and Michael D. Eck, Protestant. The day prior to the hearing before this Court, Michael D. Eck filed a Consent to Judgment in Favor of Robert W. Mockard, et al., so that argument on February 11 was presented only by Petitioners and People's Counsel.

The issues raised on appeal are as follows:

(1) Was the evidence presented to the Board relative to mistake strong enough to render the issue fairly

debatable? [Balto. Co. Code Sec. 2-58.1(j)(1)].

(2) Did the Board make findings as to the factors warranting the reclassification pursuant to Sec. 2-58.1(j)(2) of the Balto. Co. Code?

(3) Was the condition placed on the reclassification erroneous?

The Board decided to grant Petitioner's request for a reclassification in zoning from business local (BL-CS-2) to business major (BM-CS-2). The Board added the condition "for the specific purpose of expanding the existing used and new car dealership". The Board's decision is based upon the "change or mistake" rule set forth in the Baltimore County Code:

Before any property is reclassified pursuant to this section, the board of appeals must find:

(1) That there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error.

Balto. Co. Code 1978, Sec. 2-58.1(j)(1) (1985 Cum. Supp.).

I. Was the evidence presented to the Board relative to mistake strong enough to render the issue fairly debatable?

Petitioners relied on the "mistake" portion of the "change or mistake" rule and argued to the Board that the BL (business local) zoning given to the subject property during the 1984 Comprehensive Zoning Process was an error in light of the

fact that it is surrounded by BM (business major) zones. They offered testimony from three expert witnesses, two of whom testified that in their opinion, a mistake had been made in the 1984 zoning. In addition, a letter from Norman E. Gerber, Director of Planning and Zoning, was accepted into evidence wherein the proposed reclassification was recommended, although no mistake in prior zoning was acknowledged. Photos and a zoning map were also presented to the Board.

This Court is aware that in a zoning appeal the Court may not substitute its judgment for that of the Board. The scope of review is limited to a determination of whether the issue presented to the Board, i.e. mistake, was fairly debatable. If so, the decision must be affirmed by the Circuit Court. Floyd v. County Council of P.G. Co., 55 Md. App. 246, 461 A.2d 76 (1983). However, in order to render the issue of "mistake" fairly debatable, substantial evidence of such mistake must have been presented to the Board. Coppolino v. County Board of Appeals of Baltimore County, 23 Md. App. 358, 328 A.2d 55 (1974). When a Board's finding cannot be said to be "fairly debatable", it is arbitrary, capricious and a denial of due process of law. Turner v. Hammond, 270 Md. 41, 310 A.2d 543 (1973).

This Court will not disturb the Board's decision as to the issue of mistake. The evidence, including photographs, zoning map and expert testimony, presented to the Board was sufficient to create a fairly debatable issue of mistake.

II. Did the Board make findings as to the factors warranting the reclassification pursuant to Sec. 2-58.1(j)(2)?

People's Counsel argues that the written opinion of the Board does not reflect the requisite consideration of factors necessary for a reclassification, as set forth in Sec. 2-58.1(j)(2). This Court agrees. A careful reading of the Code section mandates that a reclassification may be made only upon consideration of factors . . . including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities, water supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities, and other public facilities, and compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water supply facilities, and the capital program.

FILED MAR - 4 1987

In reviewing an agency action, the Court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency. United Steel Workers v. Bethlehem Steel, 298 Md. 665, 472 A.2d 62 (1984). In the instant case, the Board's decision is conclusory in nature and specifically omits findings relative to the factors set forth above. The circuit court may not supply factual findings which were not made by the Board. Ocean Hideaway Condominium, et al. v. Boardwalk Plaza Venture, 68 Md. App. 650 (1986). This Court will remand for findings consistent with Sec. 2-58.1(j)(2).

III. Was the condition placed on the reclassification erroneous?

Both Petitioner and People's Counsel urge that conditional zoning is invalid when the rezoning is accomplished by the open-plat method employed by Petitioners. Although testimony was taken relative to Petitioner's proposed use, their petition for reclassification was not a "specific-site plan" as specified in the Baltimore County Code Sec. 2-58.1(1). In Board of County Commissioners of Washington County v. H. Manny Holtz, Inc., 65 Md. App. 574, 501 A.2d 489 (1985), the Court of Appeals stated:

While we do acknowledge that certain text writers and various states have been attracted to conditional zoning as a valuable planning tool, we are not inclined to construe the statute [Article 66B] to provide for conditional use zoning in Maryland.

Although Sec. 2-58.1(1) provides an exception to the rule enunciated in Holtz, Petitioners did not utilize that provision. It appears that the Board was attempting to mitigate any negative impact which the reclassification may have on the surrounding neighborhood by imposing the condition on the reclassification. However, conditional zoning is not a valid means by which to achieve that result. A more careful determination of the delineated factors should enable the Board to determine whether the prospective classification is, in fact, warranted.

Accordingly, it is this 3rd day of March, 1987, by the Circuit Court for Baltimore County,

ORDERED that the decision of the County Board of Appeals be and the same is hereby REVERSED as to the condition imposed on the reclassification, and further

ORDERED that the case be REMANDED to the County Board of Appeals for findings consistent with this opinion.

William M. Nickerson
WILLIAM M. NICKERSON, JUDGE

COPIES SENT TO:

Robert W. Cannon, Esquire
100 South Charles Street
Baltimore, Maryland 21201

Phyllis C. Friedman, Esquire
Room 223, Court House
Towson, Maryland 21204

Stanley H. Miller, Esquire
Suite 200
218 East Lexington Street
Baltimore, Maryland 21202

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 24 PAGE 102 CASE NO. 86CG1262 CATEGORY APPEAL

ATTORNEYS

IN THE MATTER OF
ROBERT W. MOCKARD, STEVEN R. GRIFFITH, SAIED MAMOCH, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL CS-2 TO BM-CS-2
11th DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166
MICHAEL D. ECK, Protestant
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Stanley H. Miller
Knickerbocker Bldg-Ste 200
218 E. Lexington St. (02)
752-6203
Robert W. Cannon
100 South Charles Street
(01) 532-8816

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Peter Max Zimmerman
Rm. 223, Courthouse
(04) 494-2188

3/5/87 P.F. 86-303
(1) April 4, 1986 - Appellant's Order for Appeal from the Decision of the County Board of Appeals of Baltimore County and Petition fd.
(2) April 4, 1986 - People's Counsel for Baltimore County Appeal from the Decision of the County Board of Appeal and Petition fd.
(3) Apr. 4, 1986 - Certificate of Notice fd.
(4) April 7, 1986 - Appellant's Robert W. Mockard, et al Order for Appeal from the Action of the Board of Appeals of Baltimore County fd.
(5) April 7, 1986 - Certificate of Notice fd.
(6) April 17, 1986 - App of Robert W. Cannon as attorney for the appellants same day Petition perfecting appeal from action of the county board of appeals of Baltimore county fd.
(7) Apr. 23, 1986 Protestant's Answer to Petition on Appeal fd.
(8) May 2, 1986 - Appellant's (Michael D. Eck) Motion to Extend Time to Transmit Record fd.
(9) May 16, 1986 - Order of Court that the Time to transmit record of appeal be and it is hereby extended until the 1st day of August, 1986. (REC)
(10) May. 16, 1986 - Correspondence fd.
(11) May. 16, 1986 - Appellant's Mockard et al Answer to Petition for Appeal fd./filed by Michael D. Eck
(12) May. 16, 1986 - Appellants (Mockard) Answer to Petition for Appeal filed by People's Counsel for Balto. Co. fd.
(13) Aug. 1, 1986 - Transcript of Record fd.
(14) Aug. 1, 1986 - Notice of Filing of Record fd.
(15) Aug. 25, 1986 - People's Counsel's Memorandum fd.
(16) Aug. 29, 1986 - Appellants' Motion to Extend Time to File Memoranda and Order of Court that the time to file memoranda pursuant to MD Rule of Procedure B12 be and it is hereby extended until the 29th day of October, 1986. (MDP, REC)
(over)

DOCKET 24 PAGE 102 CASE NO. 86CG1262

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-86-303
Item #165

OPINION

The above captioned matter comes before this Board on a
Petition for Reclassification out of cycle.

Testimony and evidence was received by this Board on Wednes-
day, February 12, 1986.

Petitioner's Exhibit 2, pictorially describes the existing
zoning on the subject site as well as the property Petitioner now seeks to
rezone.

Witnesses for the Petitioner testified, over objection by the
People's Counsel, that the intended use of the subject site was for the expan-
sion of the new and used car dealership of Griffith Chrysler-Plymouth. The
basis of People's Counsel's objection was the failure of the Petitioner to
submit a specific site plan.

William F. Kirwin, an expert land planner and architect,
testified that he believed the County Council committed error in the 1984
zoning maps. He also stated that the requested reclassification would be
consistent with the surrounding classifications, would comply with the 502.1
requirements of the Baltimore County Zoning Regulations and would provide a
reasonable use for the subject property.

John W. Guckert, a Traffic Engineer, testified that in his
opinion the reclassification of the subject site would not adversely affect
traffic flow or result in increased congestion.

Robert W. Mockard, et al
Case No. R-86-303

Mr. Guckert's testimony was questioned by the Protestants, however, it is
apparent that the Protestants' questions concerned Mr. Guckert's description
of East Avenue and Harford Road as a level A intersection rather than the
resultant change of traffic flow and/or congestion resulting from a reclassifi-
cation of the subject property.

Frederick P. Klaus, a real estate consultant, testified that
in his opinion the County Council had committed error, that he was certain a
BM classification rather than BL would have been placed on the subject property
during the 1984 Comprehensive Zoning Process if it had been an issue and further
that the reclassification of the subject property would comply with the 502.1
requirements of the Baltimore County Zoning Regulations.

James Hoswell, land planner for Baltimore County, testified
that the present zoning of the subject property provides for a reasonable use
of same. Through Mr. Hoswell, a letter dated January 27, 1986, directed to
the Board of Appeals from Norman E. Gerten, Director of Planning and Zoning,
was introduced as Petitioner's Exhibit 7. Mr. Hoswell stated that said letter
was written with the knowledge that the requested reclassification was on an
open site plan. Nevertheless, said letter recommends the requested
reclassification.

It is also interesting to note that this Petition for
Reclassification was exempted by the County Council from the normal cyclical
procedures. This Board is persuaded that such unusual action by the County
Council demonstrates the possibility that the County Council may believe error
was committed during the 1984 Comprehensive Zoning Process.

Three witnesses were produced by the Protestants.

Robert W. Mockard, et al
Case No. R-86-303

The first witness, Mr. Maurice Barsotti, stated his primary
concern was traffic congestion and the attendant effect the reclassification
of the subject property will have on East Avenue. Mr. Barsotti also mentioned
the possibility of an increase in crime in the area if the reclassification is
granted.

Mrs. Mary Eck and Robert Eck reiterated Mr. Barsotti's con-
cern about increased traffic. They also questioned the specific uses intended
by the Petitioners should the reclassification request be granted. Given the
extensive number and types of uses permitted in a BM zone, Mr. and Mrs. Eck
were, justifiably, we believe, concerned with the proliferation of traffic and
commercialization and industry in the area. Both Mr. and Mrs. Eck acknow-
ledged, however, that they had no particular objection to the expansion of the
car dealership.

After having considered all of the evidence, this Board is
persuaded that the concerns expressed by Mr. Barsotti and Mr. and Mrs. Eck
are legitimate. Life and the quality of that life is precious and the
reclassification of the subject site shall impact this neighborhood. However,
we are also persuaded that the County Council did commit error in not classi-
fying the subject site BM during the 1984 zoning process. The subject
properties are surrounded by BM zones. Only across Harford Road, on the
other side of the street, are these other BL and BM zones. No CR zones are
adjacent or contiguous to the subject property.

This Board is also cognizant of the fact that the Court of
Appeals has consistently stated that a more liberal standard is employed when
considering a reclassification from one commercial zone to another. At the
same time, however, we cannot be oblivious to the problems anticipated by the
surrounding neighborhood.

Robert W. Mockard, et al
Case No. R-86-303

The Petitioners' property and that upon which they are
contract purchasers is peculiarly laid out. Although the particular property
sought to be reclassified is not contiguous to a CR zone, much of the balance
of Petitioners' property is so situated. Consequently, a specific site plan,
obviously, would be preferred. Unfortunately none exists. Nevertheless, the
Board cannot ignore what we believe to be obvious error. We can, however,
endeavor to correct that error while protecting the quality of life of the
surrounding neighborhood.

This Board shall, therefore, grant the requested reclassifica-
tion for the specific purpose of expanding the existing used and new car
dealership.

O R D E R

For the reasons set forth in the foregoing Opinion, it is
this 12th day of March, 1986, by the County Board of Appeals,
ORDERED that the Petition for Reclassification from BL-CS-2 to BM-CS-2 be
and the same is GRANTED for the specific purpose of expanding the existing
used and new car dealership.

Any appeal from this decision must be in accordance with
Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

William F. Kirwin

John W. Guckert

Robert W. Mockard, et al

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

ROBERT W. MCKARD, ET AL,
PLAINTIFFS

Doc. No. 24

ZONING FILE NO. R-86-303

Folio No. 102

File No. 84-1262

CERTIFICATE OF NOTICE

Mr. Clerks:

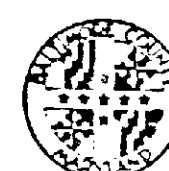
Pursuant to the provisions of Rule B-2(d) of the Maryland
Rules of Procedure, William T. Hackett, LeRoy B. Spurrier and William B. Evans,
constituting the County Board of Appeals of Baltimore County, have given notice
by mail of the filing of the appeal to the representative of every party to the
proceeding before it; namely, Robert W. Cannon, Esq., Weinberg & Green,
100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners-Plaintiffs;
Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Protestant; Stanley H.
Miller, Esq., Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore,
Md. 21202, Counsel for Protestant; and Phyllis C. Friedman, Court House,
Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which
Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
410-3153

Robert W. Mockard, et al
Case No. R-86-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of
Notice has been mailed to Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles
St., Baltimore, Md. 21201, Counsel for Petitioners-Plaintiffs; Michael D. Eck,
9304 Carney Rd., Baltimore, Md. 21234, Protestant; Stanley H. Miller, Esq.,
Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, Md. 21202,
Counsel for Protestant; and Phyllis C. Friedman, Court House, Towson, Md. 21204,
People's Counsel for Baltimore County, on this 12th day of April, 1986.

June Holmen
County Board of Appeals of Baltimore
County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

April 9, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles Street
Baltimore, Md. 21201

Dear Mr. Cannon:

Re: Case No. R-86-303
Robert W. Mockard, et al

In accordance with Rule B-7 (a) of the Rules of
Procedure of the Court of Appeals of Maryland, the County
Board of Appeals is required to submit the record of pro-
ceedings of the appeal which you have taken to the Circuit
Court for Baltimore County in the above matter within thirty
days.

The cost of the transcript of the record must be paid
by you. Certified copies of any other documents necessary
for the completion of the record must also be at your
expense.

The cost of the transcript, plus any other documents,
must be paid in time to transmit the same to the Circuit
Court not later than thirty days from the date of any
petition you might file in court, in accordance with Rule
B-7 (a).

Enclosed is a copy of the Certificate of Notice, also
invoice covering the cost of certified copies of necessary
documents.

Very truly yours,

June Holmen, Secretary

Encls.



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

April 9, 1986

Stanley H. Miller, Esq.
Suite 200, Knickerbocker Bldg.
218 E. Lexington Street
Baltimore, Md. 21202

Dear Mr. Miller:

Re: Case No. R-86-303
Robert W. Mockard, et al

Notice is hereby given, in accordance with
the Rules of Procedure of the Court of Appeals of Maryland,
that an appeal has been taken to the Circuit Court for
Baltimore County from the decision of the County Board
of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate
of Notice.

Very truly yours,

June Holmen, Secretary

Encl.

cc: Michael D. Eck
Phyllis C. Friedman
Arnold Jackson
Jean Jurek
James Dyer
Norman Gerten
James Hoswell

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11TH DISTRICT

BEFORE THE
BOARD OF APPEALS
OF
BALTIMORE COUNTY

ORDER FOR APPEAL OF ROBERT W. MOCKARD, ET AL.
FROM ACTION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY

MR. CLERK:

Please enter an appeal on behalf of Robert W. Mockard, Steven R. Griffith, Saie' Manochah, Mohamad Pakdaman, Mohammad Manochah, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their successors, Applicants, from the Order of the Board of Appeals of Baltimore County passed in the above entitled case on March 6, 1986, to the extent that said Order conditioned reclassification of the subject property from BL-CS-2 to BM-CS-2 for the specific purpose of expanding the existing used and new car dealership.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816

Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was heretofore served on the Board of Appeals of Baltimore County, whose action is appealed from, by leaving a copy thereof with *Elizabeth B. Brooks*, at Room 200, Court House, Towson, Maryland 21204, this 7th day of April, 1986.

Elizabeth B. Brooks
Elizabeth B. Brooks

COUNTY BOARD OF APPEALS
ROOM 200 - 1 P 3 11

- 2 -

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVENUE
FROM BL-CS-2 TO BM-CS-2 11TH DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Doc. No. 24
Folio No. 102
File No. B6-CG-1242

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, LeFoy B. Spurrier and William R. Evans, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeals to the representative of every party to the proceeding before it; namely, Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 218 E. Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Road, Baltimore, Md. 21234, Contract Purchaser, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holman
June Holman
County Board of Appeals of Baltimore County, Room 200, Court House Towson, Md. 21204
444-2160

Robert W. Mockard, et al
Case No. B-66-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 218 East Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles St., Baltimore, Md., 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Rd., Baltimore, Md. 21234, Contract Purchaser, on this 4th day of April, 1986.

June Holman
June Holman
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

Stanley H. Miller, Esq.
Knickerbocker Bldg., Suite 200
218 E. Lexington St.
Baltimore, Md. 21202

Re: Case No. B-66-303
Robert W. Mockard, et al

Dear Mr. Miller:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holman
June Holman, Secretary

Encls.
cc: Michael D. Eck



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

People's Counsel for Baltimore County
Court House
Towson, Md. 21204

Re: Case No. B-66-303
Robert W. Mockard, et al

Gentlemen:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holman
June Holman, Secretary

Encls.



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Re: Case No. B-66-303
Robert W. Mockard, et al

Dear Mr. Cannon:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holman
June Holman, Secretary

Encl.
cc: Steven R. Griffith
Arnold Jablon
Joan Jung
James Dyer
Norman Garter
James Maxwell

COUNTY BOARD OF APPEALS

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11TH DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166

CIRCUIT COURT
FOR
BALTIMORE COUNTY
DOCKET NO.:

NOTICE OF APPEAL

Please note an Appeal from the decision of the County Board of Appeals of Baltimore County in the above captioned matter under date of March 6, 1986 to the Circuit Court for Baltimore County and forward all papers to the Court for Hearing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the ORDER FOR APPEAL was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 4th day of April, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 4th day of April, 1986.

STANLEY H. MILLER
Knickerbocker Building, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Michael D. Eck,
Protestant

JOELSTEIN & MILLER
ATTORNEYS AT LAW
218 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-6203

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166

PETITION FOR APPEAL

Michael D. Eck, Protestant before the County Board of Appeals and Appellant herein, having heretofore filed a Notice of Appeal from the opinion and Order of the County Board of Appeals dated March 6, 1986 in compliance with Rule B2e files this Petition setting forth the action appealed from and the grounds under which the Appeal is taken.

1. The County Board of Appeals decision and Order granting the Petition for reclassification from BL-CS-2 to BM-CS-2 was based upon no legally sufficient evidence upon which to base its conclusions.

2. That the decision of the County Board of Appeals was contrary to the evidence and that the County Board of Appeals was erroneous in its application of the law and the facts.

3. That the decision of the County Board of Appeals was illegal, arbitrary and capricious.

4. And for such other and further reasons as will be given at the hearing on this matter.

STANLEY H. MILLER
KNICKERBOCKER BUILDING, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Michael D. Eck,
Protestant

OLDSTEIN & MILLER
ATTORNEYS AT LAW
18 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-8203

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the PETITION FOR APPEAL was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 4th day of April, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 4th day of April, 1986.

STANLEY H. MILLER

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 9 38

OLDSTEIN & MILLER
ATTORNEYS AT LAW
18 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-8203

IN THE MATTER OF THE PETITION :
FOR RECLASSIFICATION FROM :
B.L.-C.S.-2 TO B.M.-C.S.-2 ZONE :
NE Corner Harford Rd. & East Ave., :
11th District :
AT LAW :
ROBERT W. MOCKARD, Petitioner :
Docket No. 24 :
Zoning File No. R-86-303 :
Folio No. 102 :
File No. 66CG1262 :

NOTICE OF APPEAL

Please note an appeal from the decision of the County Board of Appeals of Baltimore County in the above-captioned matter, under date of March 6, 1986, to the Circuit Court for Baltimore County, and forward all papers in connection therewith to the Court for hearing.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 4th day of April, 1986, a copy of the foregoing Notice of Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201.

Phyllis Cole Friedman
Phyllis Cole Friedman

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 9 38

IN THE MATTER OF THE PETITION :
FOR RECLASSIFICATION FROM :
B.L.-C.S.-2 TO B.M.-C.S.-2 ZONE :
NE Corner Harford Rd. & East Ave., :
11th District :
AT LAW :
ROBERT W. MOCKARD, Petitioner :
Docket No. 24 :
Zoning File No. R-86-303 :
Folio No. 102 :
File No. 66CG1262 :

PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellant herein, having heretofore filed a Notice of Appeal from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of March 6, 1986, in compliance with Maryland Rule B-2(e), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. That it was prejudicial error for the Board of Appeals to admit evidence concerning the proposed use of the subject site if the rezoning was obtained.

2. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the requested reclassification was warranted, and therefore their Order passed herein is illegal, arbitrary, and capricious.

WHEREFORE, Appellant prays that the Order of the County Board of Appeals under date of March 6, 1986 be reversed, and that the zoning classification of the subject property remain at B.L.-C.S.-2.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

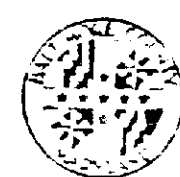
- 2 -

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 4th day of April, 1986, a copy of the foregoing Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles ST., Baltimore, MD 21201.

Phyllis Cole Friedman
Phyllis Cole Friedman

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 9 38



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
April 3, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Re: Case No. R-86-303
Robert W. Mockard, et al

Dear Mr. Cannon:

Enclosed herewith please find copy of Motion to Strike and for Expedited Proceedings which was denied by the Board this date.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Phyllis C. Friedman
Arnold Jablon
Jean Jung
James Dyer
Norman Gember
James Roswell

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-86-303
Item #166

MOTION TO STRIKE AND FOR EXPEDITED PROCEEDINGS

Petitioners, Steven R. Griffith and Mobil Oil Corporation, by their attorney, Robert W. Cannon, respectfully move that the Board strike the last paragraph of the Opinion and the entire Order issued herein on March 6, 1986, to allow time for discussions among counsel for each party as to an appropriate form of the Order and the subsequent determination by the Board of an acceptable form of the Order, during which time the Board shall retain jurisdiction over this matter.

Petitioners also move for an expedited hearing on this motion on the ground that the 30 day period during which the Board has revisory power and control over the Order pursuant to Rule 10 of the Rules of Practice and Procedure of the County Board of Appeals expires on April 5, 1986.

People's Counsel has been consulted and have advised Petitioner's attorney that they have no objection to the entry of the herein requested Order.

WHEREFORE, in accordance with the foregoing Motion, and the proposed Order set forth below, Petitioners pray that the Board issue an Order striking the last paragraph of the Opinion and the entire Order issued herein on March 6, 1986, pending reconsideration of the form of said Order.

Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8916

Attorney for Petitioners

ORDER

For the reasons set forth in the foregoing Motion, it is this ____ day of April, 1986, by the County Board of Appeals, ORDERED that the last paragraph of the Opinion and the entire Order granted herein on March 6, 1986 be struck, pending reconsideration of the form of said Order, during which time the Board shall retain jurisdiction over this matter.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans
William R. Evans

Lesley B. Spurrier
Lesley B. Spurrier

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12 day of April, 1986, a copy of the foregoing Motion to Strike and For Expedited Proceedings was served on People's Counsel, by leaving a copy thereof with Shirley M. Hess, at Room 223, Court House, Towson, Maryland 21204.

Robert W. Cannon
Robert W. Cannon
Attorney for Petitioners

RECEIVED
COUNTY BOARD OF APPEALS
11 APR - 1 P 3-25

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM EL-GS-2 to EM-GS-2
11th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-86-303
Item #166

OPINION

The above captioned matter comes before this Board on a Petition for Reclassification out of cycle.

Testimony and evidence was received by this Board on Wednesday, February 12, 1986.

Petitioner's Exhibit 2, pictorially describes the existing zoning on the subject site as well as the property Petitioner now seeks to rezone.

Witnesses for the Petitioner testified, over objection by the People's Counsel, that the intended use of the subject site was for the expansion of the new and used car dealership of Griffith Chrysler-Plymouth. The basis of People's Counsel's objection was the failure of the Petitioner to submit a specific site plan.

William F. Kirwin, an expert land planner and architect, testified that he believed the County Council committed error in the 1984 zoning maps. He also stated that the requested reclassification would be consistent with the surrounding classifications, would comply with the 502.1 requirements of the Baltimore County Zoning Regulations and would provide a reasonable use for the subject property.

John W. Guckert, a Traffic Engineer, testified that in his opinion the reclassification of the subject site would not adversely affect traffic flow or result in increased congestion.

Robert W. Mockard, et al
Case No. R-86-303

Mr. Guckert's testimony was questioned by the Protestants, however, it is apparent that the Protestants' questions concerned Mr. Guckert's description of East Avenue and Harford Road as a level A intersection rather than the resultant change or traffic flow and/or congestion resulting from a reclassification of the subject property.

Frederick P. Klaus, a real estate consultant, testified that in his opinion the County Council had committed error, that he was certain a BM classification rather than EL would have been placed on the subject property during the 1984 Comprehensive Zoning Process if it had been an issue and further that the reclassification of the subject property would comply with the 502.1 requirements of the Baltimore County Zoning Regulations.

James Hoswell, land planner for Baltimore County, testified that the present zoning of the subject property provides for a reasonable use of same. Through Mr. Hoswell, a letter dated January 27, 1986, directed to the Board of Appeals from Norman E. Gerber, Director of Planning and Zoning, was introduced as Petitioner's Exhibit 7. Mr. Hoswell stated that said letter was written with the knowledge that the requested reclassification was on an open site plan. Nevertheless, said letter recommends the requested reclassification.

It is also interesting to note that this Petition for Reclassification was exempted by the County Council from the normal cyclical procedures. This Board is persuaded that such unusual action by the County Council demonstrates the possibility that the County Council may believe error was committed during the 1984 Comprehensive Zoning Process.

Three witnesses were produced by the Protestants.

Robert W. Mockard, et al
Case No. R-86-303

The first witness, Mr. Maurice Barsotti, stated his primary concern was traffic congestion and the attendant effect the reclassification of the subject property will have on East Avenue. Mr. Barsotti also mentioned the possibility of an increase in crime in the area if the reclassification is granted.

Mrs. Mary Eck and Robert Eck reiterated Mr. Barsotti's concern about increased traffic. They also questioned the specific uses intended by the Petitioners should the reclassification request be granted. Given the extensive number and types of uses permitted in a BM zone, Mr. and Mrs. Eck were, justifiably, we believe, concerned with the proliferation of traffic and commercialization and industry in the area. Both Mr. and Mrs. Eck acknowledged, however, that they had no particular objection to the expansion of the car dealership.

After having considered all of the evidence, this Board is persuaded that the concerns expressed by Mr. Barsotti and Mr. and Mrs. Eck are legitimate. Life and the quality of that life is precious and the reclassification of the subject site shall impact this neighborhood. However, we are also persuaded that the County Council did commit error in not classifying the subject site BM during the 1984 zoning process. The subject properties are surrounded by BM zones. Only across Harford Road, on the other side of the street, are these other EL and PR zones. No PR zones are adjacent or contiguous to the subject property.

This Board is also cognizant of the fact that the Court of Appeals has consistently stated that a more liberal standard is employed when considering a reclassification from one commercial zone to another. At the same time, however, we cannot be oblivious to the problems anticipated by the surrounding neighborhood.

Robert W. Mockard, et al
Case No. R-86-303

The Petitioners' property and that upon which they are contract purchasers is peculiarly laid out. Although the particular property sought to be reclassified is not contiguous to a PR zone, much of the balance of Petitioners' property is so situated. Consequently, a specific site plan, obviously, would be preferred. Unfortunately none exists. Nevertheless, this Board cannot ignore what we believe to be obvious error. We can, however, endeavor to correct that error while protecting the quality of life of the surrounding neighborhood.

This Board shall, therefore, grant the requested reclassification for the specific purpose of expanding the existing used and new car dealership.

O R D E R

For the reasons set forth in the foregoing Opinion, it is this 12th day of March, 1986, by the County Board of Appeals, ORDERED that the Petition for Reclassification from EL-GS-2 to EM-GS-2 be and the same is GRANTED for the specific purpose of expanding the existing used and new car dealership.

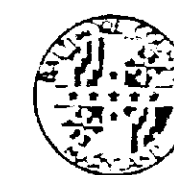
Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Robert W. Cannon
Robert W. Cannon, Esquire

Robert W. Cannon
Robert W. Cannon, Esquire



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

March 6, 1986

Robert W. Cannon, Esq.
Stephen Rosen, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

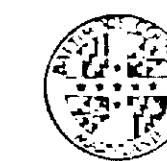
Case No. R-86-303
Robert W. Mockard, et al

Gentlemen:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,
Jane Holmer
Jane Holmer, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Freddie C. Friedman
Arnold Nelson
Jean Jung
James Dyer
Norman Gerber
James Hoswell



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-0553

ARNOLD JASON
ZONING COMMISSIONER
February 5, 1986

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Robert W. Mockard, et al - Petitioners
Case No. R-86-303

Dear Mr. Cannon:

This is to advise you that \$100.67 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Office, Room 113, County Office Building, hearing.

Sincerely,
Arnold Jason
Arnold Jason
Zoning Commissioner

TO: CPA-June
Date: 2-14-86 Time: 11:20 AM
WHILE YOU WERE OUT
M. Jason
J. Mark
Phone: 494-0553
Area Code 410 Number 494-0553 Extension 553
TELEPHONED ☐ PLEASE CALL ☐
CALLED TO SEE YOU ☐ WILL CALL AGAIN ☐
WANTS TO SEE YOU ☐ URGENT ☐
RETURNED YOUR CALL ☐
Message: R-86-303 was
paid on Feb 12 1986
11:20 AM
11:20 AM
Campbell 06301

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

January 10, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Petitioners: Robert W. Mockard, et al.
Case No. R-86-303

TIME: 10:00 A.M.

DATE: Wednesday, February 12, 1986

PLACE: Room 218, Courthouse, Towson, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 00000 W. T. Hackett
Hackett, Chairman
Board of Appeals

DATE: 2/14/86 ACCOUNT: 100.67

AMOUNT: \$ 100.67

RECEIVED FROM: Robert W. Cannon

FOR: Advertising and Posting

VALIDATION OR CHECK BY FIELD OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William T. Hackett, Chairman
To County Board of Appeals Date: November 22, 1985

Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning

Zoning Reclassification Petition No. R-86-303
SUBJECT: Property Owners: Robert W. Mockard, et al

This 2.48-acre tract is part of a 14.5-acre property located on the northeast side of Harford Road at East Avenue. The portion of the property that is the subject of this petition is zoned B.L.-C.S.-2. On the opposite side of Harford Road are properties zoned B.L.-C.S.-2 and B.R.-C.S.-2, respectively. All of the remainder of the properties abutting the subject site and all of the remainder of the entire 14.5-acre property are zoned B.M., with a portion having a C.S.-2 District designation. The petition is proposing that the zoning classification of the subject 2.48-acre parcel of land be changed from B.L.-C.S.-2 to B.M.-C.S.-2, thereby placing the entire 14.5-acre property in the B.M. zoning classification.

This petition was exempted by action of the County Council from the normal cyclical procedures. At that time, the petitioner's representative stated that the overall property has been assembled for the purpose of razing the existing structures and constructing a new car dealership here.

It is this office's opinion that the petitioner's request should be granted. The replacement of the existing strip commercial use and of the Weber Storage and Moving operation with a single development would be expected to reduce traffic congestion at the site. Certainly, the problems experienced by the community with the Weber operation would be resolved. Further, through the future processing by the County of plans for the entire site, the opportunity exists to improve access to the entire property as well as buffering to protect the adjacent residential area; the County has been virtually powerless to address these concerns while faced with the existing use here.

It is therefore recommended that the petitioner's request be granted. It is this office's opinion that the resultant homogeneous zoning classification for the entire property coupled with the proposed redevelopment would be in the public interest.

Norman E. Gerber
Norman E. Gerber, AICP
Director

NEG:slm

cc: Phyllis Cole Friedman
Robert W. Cannon
J.G. Hisswell

3 SEP 24 1985
STANDARD TIME
J.G. HISSWELL

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE MD 21201

BALTIMORE 301-332-8800
WASHINGTON AREA 601-5490
TELECOPIER 301-332-8803

WRITER'S DIRECT DIAL NUMBER

(301) 332-8816

January 8, 1986

BY HAND DELIVERY

Mr. James E. Dyer
Zoning Office
First Floor,
County Office Building
Towson, Maryland 21204

Re: Zoning Reclassification Petition
Mockard, et al.
Harford Road

Dear Jim:

In accordance with our discussion enclosed you will find the amended legal description we have prepared to reflect the fact that this description follows the zoning lines. Two (2) copies are enclosed so that one can be utilized in connection with the publication.

I will supply you with copies of the description which have been sealed within a short time.

Thank you for your assistance.

Sincerely yours,

Robert W. Cannon
Robert W. Cannon

081/amr
Enclosure

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Thomas Toporovich
To: County Council Secretary - Administrator Date: November 22, 1985

Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning

Zoning Reclassification Petition: Steven R. Griffith, et al
SUBJECT: Request for exemption from cyclical procedures

At its meeting on November 21, 1985, the Baltimore County Planning Board certified to the County Council that early action on the subject Zoning Reclassification Petition would be in the public interest. I would appreciate your scheduling this item for Council consideration as soon as possible.

Thank you for your cooperation in this matter.

Norman E. Gerber
Norman E. Gerber, AICP
Director of Planning and Zoning

NEG:slm

attachments

cc: The Honorable Donald P. Hutchinson
County Executive

B. Melvin Cole
County Administrative Officer

William T. Hackett, Chairman
County Board of Appeals

Malcolm Spicer
County Solicitor

Phyllis Cole Friedman
People's Counsel

James E. Dyer
Zoning Supervisor

Robert W. Cannon, Esquire.

BALTIMORE COUNTY PLANNING BOARD

RESOLUTION

November 21, 1985

WHEREAS, Pursuant to Subsection 2-58.1(1) of the Baltimore County Code 1973 as amended, the Baltimore County Planning Board has reviewed the request by Steven R. Griffith, et al to exempt from zoning cycle the subject reclassification petition; and

WHEREAS, The Planning Board believes that early action is required on this petition to provide for consideration of the timely expansion and benefits therefrom; therefore, be it

RESOLVED, That the Baltimore County Planning Board hereby certifies to the County Council of Baltimore County that early action on the subject Zoning Reclassification Petition would be in the public interest.

I HEREBY CERTIFY that the above resolution was duly adopted by the Baltimore County Planning Board at its meeting in Towson, Maryland, on November 21, 1985.

Norman E. Gerber
Norman E. Gerber, AICP
Secretary of the Baltimore County
Planning Board

Date

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MD. 21201

BALTIMORE 301-332-8800
WASHINGTON AREA 601-5490
TELECOPIER 301-332-8803

WRITER'S DIRECT DIAL NUMBER

(301) 332-8816

October 30, 1985

Mr. Norman Gerber,
Director
Office of Planning and
Zoning
Room 406
County Courts Building
Towson, Maryland 21204

Re: Petition of Steven R. Griffith, Saied Manocheh, Mohammad Pakdaman, Mohammad Manocheh, Ezzatollah Vahedi-Faridi, Mohammed-Hossein Tehrani, Robert W. Mockard and Mobil Oil Corporation (the "Petitioners") for Zoning Reclassification of Property Located at Harford Road and East Avenue

Dear Mr. Gerber:

On behalf of the Petitioners, we respectfully request that the subject petition for zoning reclassification be exempted from the cyclical zoning reclassification procedures and that your office recommend to the Planning Board that it certify to the County Council that early action upon said petition is manifestly required in the public interest or because of an emergency.

Early action by the Baltimore County Board of Appeals on the subject petition is manifestly required in the public interest. Steven R. Griffith ("Griffith") is presently involved in serious negotiations with an automobile manufacturer with the goal of adding a new automobile retail franchise operation to Griffith's current retail automobile operations located on property adjacent to the property for which the zoning reclassification is requested. In conjunction with the addition of this new franchise, Griffith plans to improve and expand his current operations, resulting in a large and modern automobile sales and service operation for both the current automobile franchise and the proposed new franchise. This new facility would substantially increase Griffith's overall sales and work force.

WEINBERG AND GREEN

Mr. Norman Berger
October 30, 1985
Page 2

resulting in additional employment and an expanded tax base for Baltimore County. In this regard, Griffith has contracted with his co-Petitioners to purchase several parcels of property adjacent to Griffith's current facility, portions of which parcels are located within a BL-CS-2 zone. In order to proceed with Griffith's plans, a reclassification of the property located within the BL zone must be granted.

The automobile manufacturer is requiring that the negotiations for the new dealership be concluded within a short period of time and is unable to defer its decision regarding the dealership for a period of time sufficient to allow Petitioners to request the zoning reclassification during the normal zoning cycle. Failure to obtain an expedited decision with respect to the subject petition could, therefore, block the awarding of this new franchise to Griffith, resulting in the potential loss of an important new business in Baltimore County. In short, this is an emergency situation. Time is of the essence in this transaction and deferring the hearing of Petitioners' request by the Board of Appeals until late next year would almost certainly destroy the prospects of adding a substantial and important new business to the County.

As noted in Petitioners' petition, this reclassification is warranted by a substantial change in the character of the neighborhood and by error in the classification of the property in the last comprehensive zoning map revision. Further, the public interest would be well served by the razing and elimination of the Weber Moving and Storage facility. The Weber facility is in a poor and unsightly condition and its operation results in a substantial amount of tractor-trailer truck traffic into and out of the storage facility. The construction of modern, safe and clean improvements in place of the Weber facility would clearly improve the health, safety and general welfare of the public. Petitioners' inability to promptly secure the new automobile franchise would almost certainly block both the vitally required improvements to the Weber site and the implementation of a prime economic opportunity for Baltimore County.

Thank you for your consideration of this request.

Very truly yours,

Robert W. Cannon
Robert W. Cannon

238/cwp

cc: Hon. Kenneth W. Dryden, Chairman - Planning Board
Hon. James T. Smith, Jr., Chairman - County Council
Hon. Eugene W. Gallagher

IN THE MATTER OF THE PETITION
OF STEVEN R. GRIFFITH,
SAIED MANOCHEH, MOHAMAD PAKDAMAN,
MOHAMMED MANOCHEH,
EZZATOLLAH VAHEDI-FARIDI,
MOHAMMAD-HOSSEIN TEHRANIAN,
ROBERT W. MOCKARD, AND MOBIL
OIL CORPORATION FOR ZONING
RECLASSIFICATION OF CERTAIN
PARCELS OF LAND IN THE VICINITY
OF HARFORD ROAD AND EAST AVENUE

BEFORE THE
BALTIMORE COUNTY
BOARD OF
APPEALS

STATEMENT IN SUPPORT OF
PETITION FOR ZONING RECLASSIFICATION

Steven R. Griffith, Saied Manocheh, Mohamad Pakdaman, Mohammad Manocheh, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehrani, Robert W. Mockard and Mobil Oil Corporation ("Petitioners"), in support of their Petition for Zoning Reclassification filed herein, state that:

1. The Petitioners request a change in the zoning classification of certain parcels of land located at the southwest and southeast intersections of Harford Road and East Avenue, as shown on the plat attached hereto (the "Property") from a BL-CS-2 zone (business local) to a BM-CS-2 zone (business major).

2. An error in the classification of the Property in the 1984 comprehensive zoning map revision process and a substantial change in the character of the neighborhood in which the Property is located justifies reclassification of the Property from a BL to a BM zone.

3. As the attached plat indicates, the Property is bounded by Harford Road on one side and BM zoned land to the other three sides. The Property was obviously overlooked during the previous comprehensive zoning map revision process and was left surrounded primarily by property with a higher use classification. Extension of the surrounding BM zone into the Property would complete the desirable reclassification of the surrounding area into contiguous BM zoned land, unbroken by pockets of BL zoned parcels. The present erroneous classification of the Property prohibits uses compatible with the present and future development and characteristics of the surrounding BM zoned areas. Thus, reclassification of the zoning for the Property to a BM zone would allow for development of the Property in a planned orderly manner more closely in keeping with the dominant land use of the surrounding area.

4. The requested zoning reclassification would not affect the availability and adequacy of the present transportation facilities, water-supply facilities, waste-water facilities, or other public facilities which serve the area. Adoption of the BM zone for the Property would in no manner be detrimental to the health, safety or general welfare of the public in the surrounding area. If the requested zoning reclassification is granted, the then available uses for the Property and surrounding area would eliminate the substantial amount of tractor-trailer truck

traffic into and out of the Weber Moving and Storage facility located on an adjacent parcel. The elimination of the Weber facility, which is in a poor and unsightly condition, and the construction in its place of safe, sanitary and modern improvements would clearly be in the public interest.

For all of the foregoing reasons, the Petitioners respectfully request that their petition for zoning reclassification be granted.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816

Attorney for Petitioner

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY,
Appellant
v.
ROBERT W. MOCKARD, et al.,
Appellees

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Case No. 86-CG-1262

NOTICE OF APPEAL

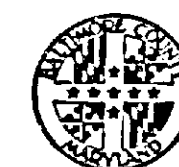
Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in the above-captioned matter, under date of March 3, 1987, and forward all papers in connection with said matter to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 2nd day of April, 1987, a copy of the foregoing Notice of Appeal was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201; and Stanley H. Miller, Esquire, Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, MD 21202.

Phyllis Cole Friedman
Phyllis Cole Friedman



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

July 21, 1987

Howard E. Friedman, Clerk
Court of Special Appeals
of Maryland
Annapolis, MD 21401-1698

Re: Case No. 86-CG-1262
(Robert W. Mockard, et al)

Dear Mr. Friedman:

We would appreciate your noting our request for a copy of the Opinion in the above-entitled case when it is filed by the Court of Special Appeals.

Thank you.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Secretary

ROBT. W. MOCKARD, ET AL
Harford Rd. and East Ave.
BL-CS-2 to BM-CS-2

R-86-303, Item 166
11th District

| | |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| Dec. 12, 1985 | Petition filed |
| Feb. 12, 1986 | Hearing before the Board |
| March 6 | Order of the Board GRANTING the reclassification for the purpose of expanding the existing use and new car dealership. |
| Apr. 4 | Order for Appeal filed in the Cir. Ct. by Phyllis C. Friedman, People's Counsel |
| Apr. 4 | Order for Appeal filed in the Cir. Ct. by Stanley Miller, Esq. on behalf of Michael L. Eck, protestant. |
| Apr. 4 | Certificate of Notice sent out |
| Apr. 7 | Order for Appeal filed in the Cir. Ct. by Robt. W. Cannon, Esq., on behalf of Petitioners. |
| Apr. 9 | Certificate of Notice sent out |
| May 8 | Extension of Time to Transmit Record |
| Aug. 1, 1986 | Record of proceedings filed in the Cir. Ct. for Balto. County |
| Aug. 25 | PC's Memo filed in Cct. |
| Aug. 29 | Extension of Time to File Memoranda to 29th day of October 1986 |
| Oct. 29 | Petitioner's Memorandum filed. |
| Feb. 10, 1987 | Appellant's (Michael D. Eck) Consent to Judgment in Favor of Robert W. Mockard, et al filed |
| Feb. 11 | Hearing had; Opinion order to be filed. (Hon. William M. Mickerson) |
| March 4 | REVERSED condition imposed on reclassification; REMENDED to CBA for findings consistent with Sec. 2-5B.1(j)(2), Co Code, 1978 Ed., as amended |
| April 2 | Notice of Appeal filed by PC to Ct of Special Appeals |
| December 7 | Circuit Court AFFIRMED by CSA. |

PETITION FOR ZONING RE-CLASSIFICATION
SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law

of Baltimore County, from an BL-CS-2 zone to an BM-CS-2 zone, for the reasons given in the attached statement; and (2) for a Special Exception under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for

and (3) for reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County:

NE 9-5
4-C
1174
1-C
300

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above re-classification, Special Exception and/or Variance, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

| | |
|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Contract Purchaser: | Legal Owner(s): |
| STEVEN R. GRIFFITH (Type of Print Name) | ROBERT W. MOCKARD (Type of Print Name) |
| <i>Steven R. Griffith</i> Signature | <i>Robert W. Mockard</i> Signature |
| DOUG GRIFFITH CHRYSLER PLYMOUTH, INC. Address | MOBIL OIL CORPORATION (Type of Print Name) |
| 2812 HARFORD ROAD Address | By: <i>Robert W. Cannon</i> Signature ROBERT W. CANNON, Attorney and Authorized Representative [See attached continuation of signature page] |
| BALTIMORE, MARYLAND 21234 City and State | Address Phone No. |
| Attorney for Petitioner: | City and State |
| ROBERT W. CANNON, ESQUIRE (Type of Print Name) | Name, address and phone number of legal owner, contract purchaser or representative to be contacted |
| <i>Robert W. Cannon</i> Signature | ROBERT W. CANNON, ESQUIRE Name |
| WEINBERG AND GREEN Address | WEINBERG AND GREEN Address (301) 332-8816 Phone No. |
| 100 SOUTH CHARLES STREET Address | |
| BALTIMORE, MARYLAND 21201 City and State | |

Attorney's Telephone No.: (301) 332-8816

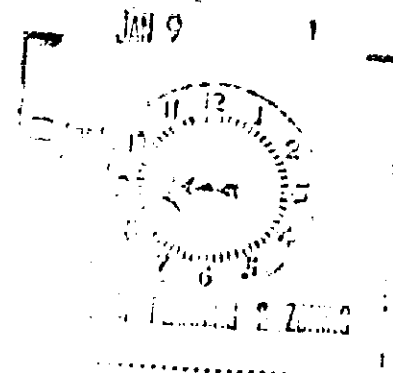
ZONING DESCRIPTION

As Amended 1/7/86

Description of current BL-CS-2 area to be reclassified as BM-CS-2

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.



PETITION FOR RECLASSIFICATION
11th Election District

LOCATION: Northeast Corner of Harford Road and East Avenue
(now abandoned)

PUBLIC HEARING: Wednesday, February 12, 1986 at 10:00 a.m.
in Room 218, Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Reclassify zoning status of property from a BL-CS-2 zone to a BM-CS-2 zone.

All that parcel of land in the 11th District of Baltimore County

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.

The property of
ROBERT W. MOCKARD, ET AL
as shown on the plan plan filed
with the Zoning Department.

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
BALTIMORE COUNTY

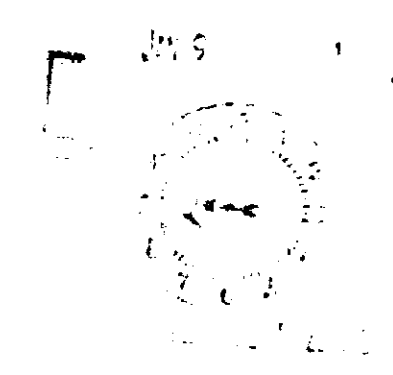
ZONING DESCRIPTION

As Amended 1/7/86

Description of current BL-CS-2 area to be reclassified as BM-CS-2

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.



IN THE MATTER OF THE
APPLICATION FOR
RECLASSIFICATION FROM
BL-CS-2 to BM-CS-2 ZONE
NE Corner of Harford Rd.
and East Ave. (now
abandoned), 11th District

BEFORE THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

ROBERT W. MOCKARD, et al.,
Petitioners

Zoning Case No. R-86-303

ENTRY OF APPEARANCE

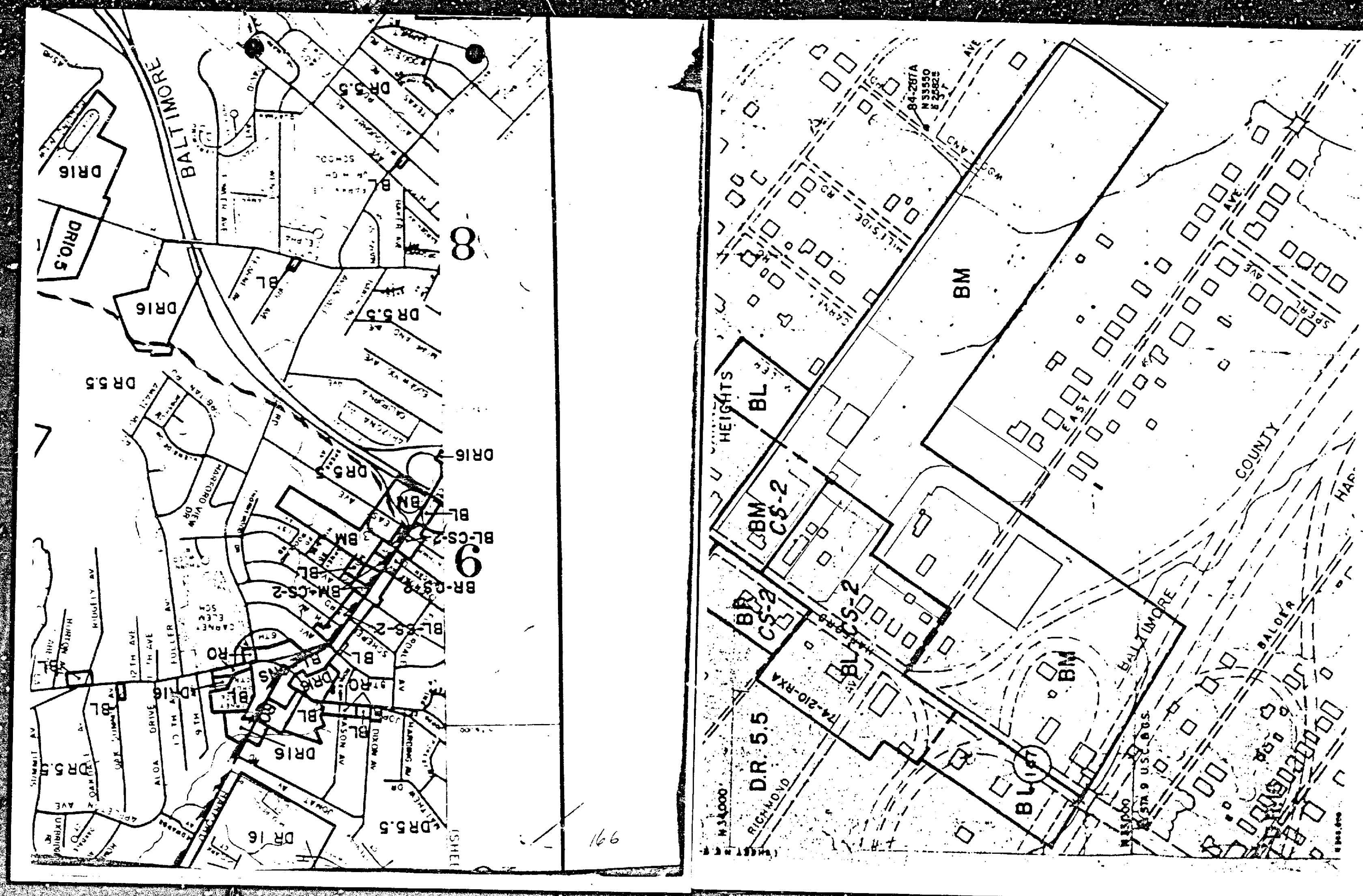
Please enter the appearance of the People's Counsel in the
above-captioned matter. Notices should be sent of any hearing dates or
other proceedings in this matter and of the passage of any preliminary
or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 13th day of January, 1986, a
copy of the foregoing Entry of Appearance was mailed to Robert W. Cannon,
Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201;
and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford
Rd., Baltimore, MD 21234, Contract Purchaser.

Peter Max Zimmerman
Peter Max Zimmerman



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3183
April 3, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Dear Mr. Cannon:

Re: Case No. R-86-303
Robert W. Mockard, et al.

Enclosed herewith please find copy of Motion to
Strike and for Expedited Proceedings which was denied by the
Board this date.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Phyllis C. Friedman
Arnold Jablon
Jean Jung
James Dyer
Norman Gerber
James Hoswell

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 to BM-CS-2
11TH DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

No. R-86-303
Item #166

MOTION TO STRIKE AND FOR EXPEDITED PROCEEDINGS

Petitioners, Steven R. Griffith and Mobil Oil
Corporation, by their attorney, Robert W. Cannon, respectfully
move that the Board strike the last paragraph of the Opinion
and the entire Order issued herein on March 6, 1986, to allow
time for discussions among counsel for each party as to an
appropriate form of the Order and the subsequent determination
by the Board of an acceptable form of the Order, during which
time the Board shall retain jurisdiction over this matter.

Petitioners also move for an expedited hearing on
this motion on the ground that the 30 day period during which
the Board has revisory power and control over the Order
pursuant to Rule 10 of the Rules of Practice and Procedure of
the County Board of Appeals expires on April 5, 1986.

People's Counsel has been consulted and have advised
Petitioner's attorney that they have no objection to the entry
of the herein requested Order.

WHEREFORE, in accordance with the foregoing Motion,
and the proposed Order set forth below, Petitioners pray that
the Board issue an Order striking the last paragraph of the
Opinion and the entire Order issued herein on March 6, 1986,
pending reconsideration of the form of said Order.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Petitioners

ORDER

For the reasons set forth in the foregoing Motion,
it is this ____ day of April, 1986, by the County Board of
Appeals, ORDERED that the last paragraph of the Opinion and
the entire Order granted herein on March 6, 1986 be struck,
pending reconsideration of the form of said Order, during
which time the Board shall retain jurisdiction over this
matter.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

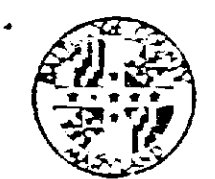
William R. Evans
William R. Evans

Lesley S. Spurrier
Lesley S. Spurrier

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12 day of April, 1986, a
copy of the foregoing Motion to Strike and For Expedited
Proceedings was served on People's Counsel, by leaving a copy
thereof with *Phyllis C. Friedman*, at Room 223, Court House,
Towson, Maryland 21204.

Robert W. Cannon
Robert W. Cannon
Attorney for Petitioners



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3183
April 4, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Dear Mr. Cannon:

Re: Case No. R-86-303
Robert W. Mockard, et al.

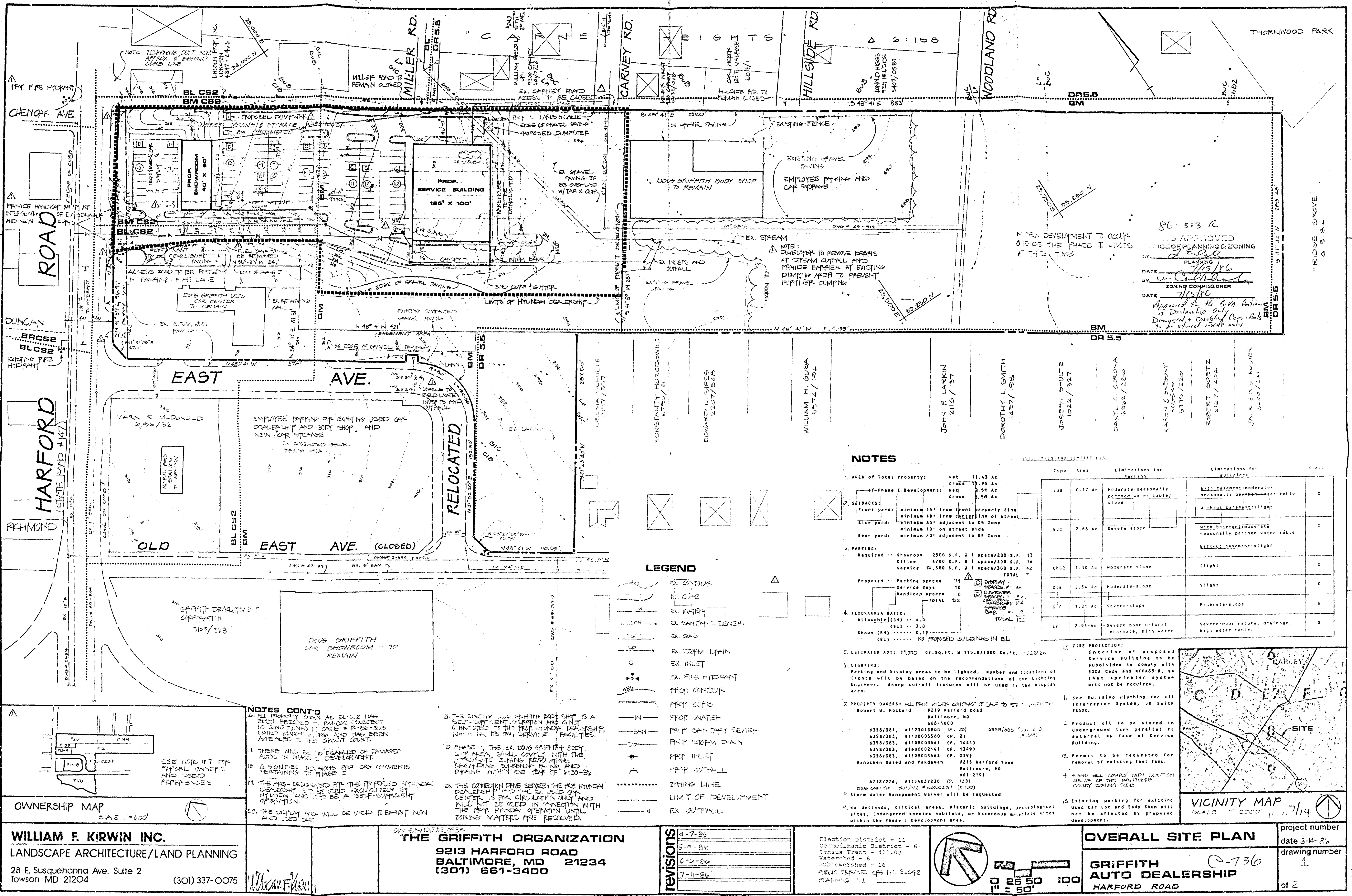
Notice is hereby given, in accordance with
the Rules of Procedure of the Court of Appeals of Maryland,
that an appeal has been taken to the Circuit Court for
Baltimore County from the decision of the County Board
of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate
of Notice.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Arnold Jablon
Jean Jung
James Dyer
Norman Gerber
James Hoswell



86-303 R
IS APPROVED
OFFICE OF PLANNING & ZONING
DATE 7/15/86
BY [Signature]
ZONING COMMISSIONER
DATE 7/15/86
Approved by the 6 m. Plan
of Dealership Only
Damaged & Disabled Cars + Parts
No Noisy or Loud Music

NOTES

- 1. AREA of Total Property: Net 11.43 Ac, Gross 11.95 Ac
- 2. SETBACKS: Front yard: minimum 15' from front property line; Side yard: minimum 35' adjacent to DR Zone; Rear yard: minimum 20' adjacent to DR Zone
- 3. PARKING: Required -- Showroom 2500 S.F. @ 1 space/200 S.F.; Office 4700 S.F. @ 1 space/300 S.F.; Service 12,500 S.F. @ 1 space/300 S.F.
- 4. FLOOR AREA RATIO: Allowable (BL) -- 4.0; Shown (BL) -- 3.0; (BL) -- NO PROPOSED BUILDINGS IN BL
- 5. ESTIMATED ADT: 17,000 Gr. Sq. Ft. @ 115.8/1000 Sq. Ft. -- 228/26
- 6. LIGHTING: Parking and Display areas to be lighted. Number and locations of lights will be based on the recommendations of the Lighting Engineer.
- 7. PROPERTY OWNERS: ALL PROP. UNDER CONTRACT OF SALE TO GR. & GRIF. TH

| Type | Area | Limitations for Parking | Limitations for Buildings | Class |
|------|---------|------------------------------------------------|----------------------------------------------------------------------------------|-------|
| BUB | 0.17 Ac | Moderate-seasonally perched water table; slope | With basement: moderate-seasonally perched water table; Without basement: slight | C |
| BUC | 2.66 Ac | Severe-slope | With basement: moderate-seasonally perched water table; Without basement: slight | C |
| CHB2 | 1.30 Ac | Moderate-slope | Slight | C |
| CLB | 2.54 Ac | Moderate-slope | Slight | C |
| CIC | 1.01 Ac | Severe-slope | Moderate-slope | B |
| LR | 2.95 Ac | Severe-poor natural drainage, high water | Severe-poor natural drainage, high water table | D |

LEGEND

- EX. CONTOUR
- EX. C/P
- EX. WATER
- EX. SANITARY SEWER
- EX. GAS
- EX. STORM DRAIN
- EX. INLET
- EX. FIRE HYDRANT
- PROP. CONTOUR
- PROP. CURB
- PROP. WATER
- PROP. SANITARY SEWER
- PROP. STORM DRAIN
- PROP. INLET
- PROP. OUTFALL
- ZONING LINE
- LIMIT OF DEVELOPMENT
- EX. OUTFALL

NOTES CONT'D

- 16. ALL PROPERTY SHOWN AS BL C22 HAS BEEN RETURNED TO GR. & GRIF. TH TO BE REDEVELOPED IN PHASE I OF R-80-303 DATED MARCH 2, 1980 AND HAS BEEN ADDED TO THE CIRCULAR COURT.
- 17. THERE WILL BE NO DISABLED OR DAMAGED AUTO IN PHASE I DEVELOPMENT.
- 18. A SIGNIFICANT RELATIONS PER CRO COMMENTS PERTAINING TO PHASE I
- 19. THE AREA DESIGNATED FOR THE PROPOSED HYUNDAI DEALERSHIP IS TO BE USED EXCLUSIVELY BY HYUNDAI AND IS TO BE A SELF-SUFFICIENT OPERATION.
- 20. THE DISPLAY AREA WILL BE USED TO EXHIBIT NEW AND USED CARS
- 21. THE EXISTING DUBS GRIFFITH BODY SHOP IS A SELF-SUFFICIENT OPERATION AND IS NOT CONNECTED TO THE PROP. HYUNDAI DEALERSHIP, WHICH HAS ITS OWN SERVICE FACILITIES.
- 22. PHASE I: THE EX. DUBS GRIFFITH BODY SHOP AREA SHALL COMPLY WITH THE EXISTING ZONING REGULATIONS REGARDING SCREENING, FENCING AND PARKING WITHIN THE YEAR OF 1980-86.
- 23. THE CONNECTION PIPE BETWEEN THE PROP. HYUNDAI DEALERSHIP AND THE EX. USED CAR CENTER IS FOR CIRCULATION ONLY AND WILL NOT BE USED IN CONNECTION WITH THE PROP. HYUNDAI OPERATION UNTIL ZONING MATTERS ARE RESOLVED.

WILLIAM F. KIRWIN INC.
LANDSCAPE ARCHITECTURE/LAND PLANNING
28 E. Susquehanna Ave. Suite 2
Towson MD 21204
(301) 337-0075

THE GRIFFITH ORGANIZATION
9213 HARFORD ROAD
BALTIMORE, MD 21234
(301) 681-3400

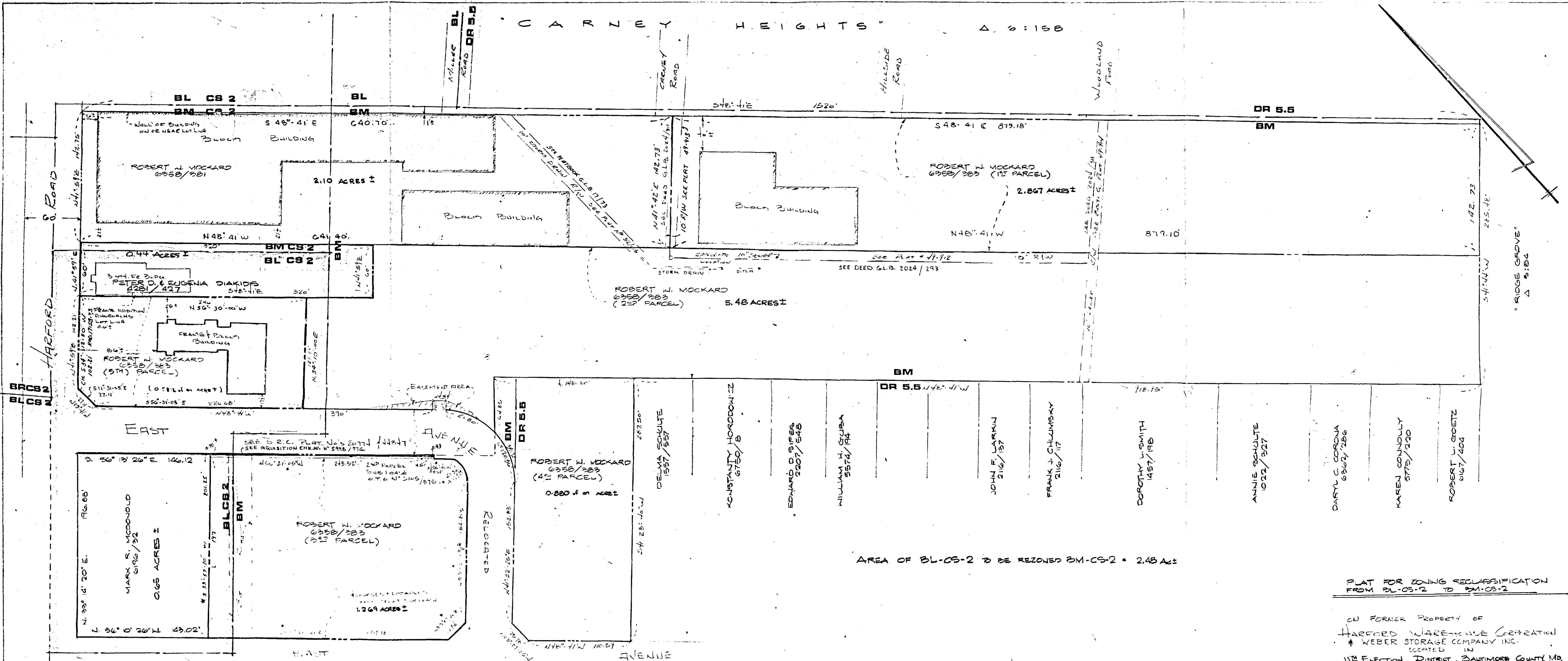
| | |
|-----------|---------|
| revisions | 4-7-86 |
| | 5-9-86 |
| | 6-3-86 |
| | 7-11-86 |

Election District - 11
Councilmanic District - 6
Census Tracts - 411.02
Watershed - 6
Subwatershed - 18
RURAL REPRESENTATIVE COUNCIL
PLANNING DISTRICT

OVERALL SITE PLAN
GRIFITH AUTO DEALERSHIP
HARFORD ROAD
project number
date 3-14-86
drawing number
1
of 2

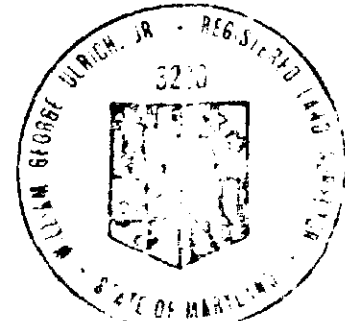
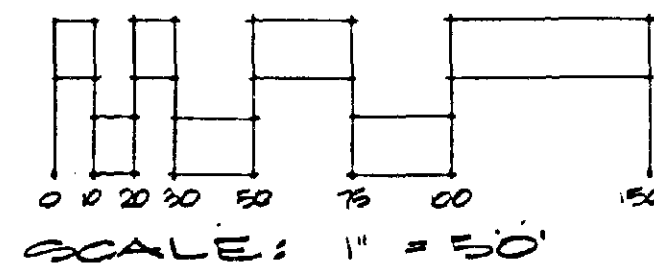
CARNEY HEIGHTS

Δ 6:158



NOTE: THE PROPERTY LINE INFORMATION SHOWN HEREON WAS PREPARED BY GERHOLD CROSS & ETZEL, INC. IN 12-81. SUPPLEMENTAL INFORMATION HAS BEEN ADDED FOR THE PURPOSE OF FILING A ZONING RECLASSIFICATION PETITION BY WILLIAM F. KIRWIN, INC., OCTOBER 30, 1985

DOUGLAS W. & BARBARA GRIFFITH
505/422



PLAT FOR ZONING RECLASSIFICATION
FROM BL-CS-2 TO BM-CS-2

ON FORMER PROPERTY OF
HARFORD WAREHOUSE CORPORATION
& WEBER STORAGE COMPANY, INC.
LOCATED IN
11th ELECTION DISTRICT, BALTIMORE COUNTY, MD.
6th COUNCILMATIC DISTRICT

AS ORIGINALLY PREPARED BY
GERHOLD CROSS & ETZEL
REG. PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVE., TOWSON, MD
REVISED 12-28-81
REVISED 12-21-81

WFK WILLIAM F. KIRWIN, INC.
Land Planning, Landscape Architecture
28 E. Susquehanna Avenue
Towson, MD 21204
Phone 301-337-0075

OFFICE COPY

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVENUE
FROM EL-CS-2 TO EM-CS-2 ZONE
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

MICHAEL D. ECK, PLAINTIFF
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, PLAINTIFF

Doc. No. 24
Folio No. 102
File No. 85-07-1262

ZONING FILE NO. R-86-303

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 3-2(d) of the Maryland Rules of Procedure, William T. Hackett, LeRoy B. Spurrier and William R. Evans, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeals to the representative of every party to the proceeding before it; namely, Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 219 E. Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Road, Baltimore, Md. 21234, Contract Purchaser, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore
County, Rm. 200, Court House
Towson, Md. 21204
494-3190

Robert W. Mockard, et al
Case No. R-86-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 219 East Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles St., Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Rd., Baltimore, Md. 21234, Contract Purchaser, on this 4th day of April, 1986.

June Holmen
County Board of Appeals of Baltimore County

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 10, 1986

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

RE: Item No. 166 - Case No. R-86-303
Petitioners - Robert W. Mockard, et al
Reclassification Petition

Dear Mr. Cannon:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:mr

Enclosures

cc: William F. Kirwin, Inc.
28 East Susquehanna Avenue
Towson, Maryland 21204

Maryland Department of Transportation

State Highway Administration

William K. Hellmann
Secretary
Hal Kassoff
Administrator

November 15, 1985

Mr. A. Jablon
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Item #166
Property Owner: Robert
W. Mockard
Location: NE corner
Harford Road (Route 147)
and East Avenue
Existing Zoning: B.L.
CS-2
proposed Zoning B.M.
CS-2
Acres: 2.48
District 11th

Alt: James Dyer

Dear Mr. Dyer:

On review of the revised submittal of 12/28/81 and field inspection, the S.H.A. finds the proposed change in zoning from B.L. & B.M. to CS-2 generally acceptable.

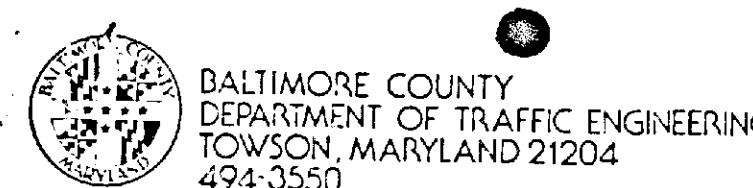
Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engr. Access Permits
by: George Wittman

CL-GW:es

cc: J. Ogle

My telephone number is 301 659-1350
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
P.O. Box 717/707 North Calvert St., Baltimore, Maryland 21203-0717



STEPHEN E. COLLINS
DIRECTOR

January 7, 1986

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 166 -ZAC- Meeting of November 12, 1985
Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
Existing Zoning: B.L. - CS-2
Proposed Zoning: B.M. - CS-2

Acres: 2.48
District: 11th

Dear Mr. Jablon:

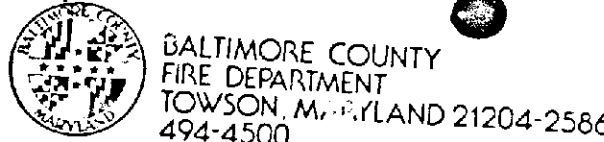
This site is 2 different parcels of land with two different uses. On the south east corner of Harford Road and East Avenue is a gas station which is using the public side walks for parking, not maintaining the setback for parking along Harford Road. Parking on the sidewalk causes a safety problem for pedestrians and not maintaining the setbacks causes sight distance problems for setbacks existing from East Avenue.

On the north east corner of East Avenue and Harford Road is the second parcel of land, which is occupied by a car dealer. The dealer is parking in the R/V not maintaining the setback and has an entrance on East Avenue that exceeds the maximum width.

The proposed change to the zoning is not expected to be a major traffic problem.

Michael S. Flanagan
Traffic Engineer Associate II

MSE/bld



PAUL H. REINCKE
CHIEF

November 22, 1985

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
166 Item No.: 166
Zoning Agenda: Meeting of November 12, 1985

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.
6. Site plans are approved, as drawn.
7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: [Signature]
Planning Group
Special Inspection Division

Noted and Approved: [Signature]
Fire/Prevention Bureau

/mb



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

November 21, 1985

TED ZALESKI, JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 166 Zoning Advisory Committee Meeting are as follows:
Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
District: 11th.

APPLICABLE CODES ARE CITED:

1. All structures shall conform to the Baltimore County Building Code as adopted by Council Bill 10-85, the Maryland Code for the Handicapped and Lord (A.D. 1974, 1980) and other applicable codes and standards.
2. A building and other miscellaneous permits shall be required before the start of any construction.
3. Residential: Two sets of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is not required on plans and technical data.
4. Commercial: Three sets of construction drawings sealed and signed by a registered in Maryland Architect or Engineer shall be required to file with a permit application. Registered seals are not acceptable.
5. All lot groups except 1-4 Single Family Detached Dwelling require a minimum of 1 hour fire rating for exterior walls closer than 6' to an interior lot line. All lot groups require a one hour wall of fire rating less than 1/2" to an interior lot line. Any wall built in an interior lot line shall require a fire or party wall. See Section 101.01 Section 101.02 and Table 101.02. No openings are permitted in an exterior wall within 1/2" of an interior lot line.
6. The structure does not appear to comply with Table 101.02 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 101.02 and 101.03 and have your Architect/Engineer contact this department.
7. The proposed variance appears to conflict with Section 101.02 of the Baltimore County Building Code.
8. When filing for a required Change of Use/Geography Permit, an alteration permit application shall also be filed and must show area of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are not acceptable. The change of the structure from the old use to the new use shall be shown on the plans.
9. The proposed project appears to be located in a Flood Plain, Flood Hazard Area. Please see the attached copy of Section 101.02 of the Building Code as adopted by Bill 10-85. Site plans shall show the current elevations above sea level for the lot and the finished floor levels including basement.
10. Comments: Should the change of use of any structure be proposed, a change of occupancy would be required. The building would have to be capable of complying or being made to comply to the Building Code in force at the time.
11. These abbreviated comments reflect only on the information provided by the applicant submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If changes to the structure may require additional information, the applicant should consult with the Office of Planning and Zoning, Tower, Maryland 21204.

[Signature]
Baltimore County Building Code



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

February 5, 1986

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Robert W. Mockard, et al - Petitioners
Case No. R-86-303

Dear Mr. Cannon:

This is to advise you that \$100.67 is due for advertising and posting of the above property. This fee must be paid before an order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Ms. Margaret E. du Bois, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

[Signature]
ARNOLD JABLON
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE ACCOUNT

AMOUNT \$

RECEIVED FROM

FOR

VALIDATION OR SIGNATURE OF CASHIER

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

January 10, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Petitioners: Robert W. Mockard, et al.
Case No. R-86-303

TIME: 10:00 A.M.

DATE: Wednesday, February 12, 1986

PLACE: Room 218, Courthouse, Towson, Maryland

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

cc: People's Counsel

REPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 451

September Term, 1987

PEOPLE'S COUNSEL
FOR BALTIMORE COUNTY

v.

ROBERT W. MOCKARD, et al

Wilner
Alpert
Bell, Rosalyn B.,
JJ.

OPINION BY BELL, ROSALYN B., J.

Filed: December 7, 1987

ZONING CASE NO. R-86-303

- 14 -

Although with more specificity than expressed by the trial judge, we affirm the remand of the case for the Board to decide whether there was an error in the comprehensive zoning plan. In making that determination, the Board must at least "consider," as we have defined that word, the factors found in § 2-58.1(j)(2). Secondly, the Board must at least "consider" those factors and make specific findings as to whether the proposed reclassification is warranted.

JUDGMENT AFFIRMED.
COSTS TO BE DIVIDED EQUALLY BY
APPELLANTS/CROSS-APPELLEES AND
APPELLEES/CROSS-APPELLANTS.

RECEIVED APPEALS
COUNTY BOARD OF APPEALS
1987 DEC -9 A 11:00

(17) Oct. 29, 1986 = Petitioners Memorandum fd.

CASE NO.

(18) Feb. 10, 1987 - Appellant's (Michael D. Eck) Consent to Judgment in Favor of Robert W. Mockard, et al fd.

Feb. 11, 1987 Hon. William M. Nickerson. Hearing had. Disposition of hearing held Sub Curia. Opinion order to be filed.

(19) Mar 4, 1987 - Opinion and Order of Court that the decision of the County Board of Appeals be and the same is hereby Reversed as to the condition imposed on reclassification, and further Ordered that the case be REMANDED to the County Board of Appeals for findings consistent with this opinion. (WMN) Copies sent.

ROBERT W. MOCKARD, ET AL
Harford Rd. and East Ave.
11th District

BL-CS-2 to BM-CS-2 2.48 acres

Oct. 30, 1985 Petition filed (OUT OF CYCLE)
Nov. 21, 1985 Planning Board certified to County Council that case could be considered for early action.

Dec. 2 County Council approved Planning Board's Motion certifying early action.

Robert W. Cannon, Esq. Counsel for Petitioner
Weinberg & Green
100 S. Charles St. (21201)
Stephen R. Griffith Contract Purchaser
Doug Griffith Chrysler
Plymouth, Inc.
9213 Harford Rd. (21234)

Robert W. Mockard, et al Petitioners

Phyllis C. Friedman People's Counsel

Arnold Jablon
Jean M.H. Jung
James Dyer
Norman Gerber
James Hoswell

MICHAEL D. ECK SLDG ORDER
9304 CARNEY RD. (21234) (Protestant)
Stanley H. Miller Esq. Counsel for Protestants
Knickerbocker Bldg.
Suite 200
218 E. Lexington St.
(21204)

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

MICHAEL D. ECK, PLAINTIFF
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, PLAINTIFF
ROBERT W. MOCKARD, ET AL,
PLAINTIFFS

Doc. No. 24
Folio No. 102
File No. 86-CG-1262

ZONING FILE NO. R-86-303

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING
COMMISSIONER AND THE BOARD OF APPEALS OF
BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, LeRoy B. Spurrier and
William R. Evans, constituting the County Board of Appeals of Baltimore County,
and in answer to the Order for Appeal directed against them in this case,
herewith return the record of proceedings had in the above entitled matter,
consisting of the following certified copies or original papers on file in the
office of the Zoning Department of Baltimore County:

ZONING ENTIRES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE
COUNTY

No. R-86-303
December 12, 1985 Petition filed for reclassification from BL-CS-2 to
BM-CS-2 on property located at Harford Rd. and East Ave.
in the 11th District of Balto. County
January 17, 1986 Certificate of Posting of property - filed
January 23 Publication in newspaper - filed
February 10 Comments of Balto. County Zoning Plans Advisory
Committee - filed
February 12 At 10:00 a.m. hearing held on petition by County Board
of Appeals

Robert W. Mockard, et al
Case No. R-86-303

March 6, 1986 Order of the County Board of Appeals ordering that the
Petition for Reclassification from BL-CS-2 to BM-CS-2
be GRANTED for the specific purpose of expanding the
existing used and new car dealership.

April 3 Motion to Strike and for Expedited proceedings DENIED

April 4 Order for Appeal filed in the Circuit Ct. for Baltimore
County by Phyllis C. Friedman, People's Counsel for
Baltimore County.

April 4 Petition to accompany Order for Appeal filed in the Circuit
Ct. for Baltimore County

April 4 Order for Appeal filed in the Circuit Ct. for Baltimore
County by Stanley H. Miller, Esq., on behalf of
Michael D. Eck, Protestant.

April 4 Petition to accompany Order for Appeal filed in the Cir-
cuit Ct. for Baltimore County

April 4 Certificate of Notice sent to interested parties.

April 7 Order for Appeal filed in the Circuit Ct. for Baltimore
County by Robert W. Cannon, Esq., on behalf of Petitioners.

April 9 Certificate of Notice sent to interested parties.

April 17 Petition to accompany Order for Appeal filed in the Cir-
cuit Court for Baltimore County

May 8 Motion to Extend Time to Transmit Record to Aug. 1, 1986.
August 1 Transcript of testimony filed

People's Counsel's Exhibits 1 thru 10 - Photographs of
subject property and surrounding area.

Petitioners' Exhibit No. 1 - Plat, 1/28/86, Doug Griffith
property

" " 2 - Copy of 200 scale zoning map
showing property outlined in red.

" " 3 - William Kirwin's qualifications
as a land planner

" " 4 - Site plan dated 12/21/81,
revised 12/28/81

" " 5 - Qualifications of John Wes
Guckert as traffic engineer.

" " 6 - A thru I, series of nine
photos showing subj property and
surrounding area.

Robert W. Mockard, et al
Case No. R-86-303

August 1, 1986 Record of proceedings filed in the Circuit Court for
Baltimore County.

Record of proceedings pursuant to which said Order was
entered and said Board acted are permanent records of the Zoning Department of
Baltimore County, and your respondents respectively suggest that it would be
inconvenient and inappropriate to file the same in this proceeding, but your
respondents will produce any and all such rules and regulations whenever
directed to do so by this Court.

Respectfully submitted,

John Holman
John Holman
County Board of Appeals of Baltimore
County

cc: Robt. W. Cannon, Esq.
Phyllis C. Friedman
Stanley H. Miller, Esq.

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND FIRST
AVENUE FROM BL-CS-2 TO
BM-CS-2
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Docket No.: 24
Folio No. 102
File No.: 86-CG-1262

ANSWER TO PETITION ON APPEAL

Robert W. Mockard, Steven R. Griffith, Saied Manocheh,
Mohamad Pakoaman, Mohammed Manocheh, Ezzatollah Vahedi-Faridi,
Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their
successors, Appellants in this case (hereinafter "Appellants"),
by their attorney, Robert W. Cannon, answer the Petition on
Appeal entered by Michael D. Eck in the above-entitled matter,
as follows:

1. Appellants deny Paragraph 1.
2. Appellants deny Paragraph 2.
3. Appellants deny Paragraph 3.
4. Because Paragraph 4 sets forth no additional
grounds under which the Appeal is taken or alleged error com-
mitted by the County Board of Appeals for Baltimore County,
Appellants deny Paragraph 4.

WHEREFORE, Appellants respectfully requests:

- (a) That the appeal filed by People's Counsel for
Baltimore County be denied; and
- (b) That the Court enter an Order affirming the Order
of the County Board of Appeals for Baltimore County to the
extent that such order grants reclassification of the subject
property from BL-CS-2 to BM-CS-2; and that said order be modi-
fied in part by deleting the conditioning phrase "for the spe-
cific purpose of expanding the existing used and new car deal-
ership"; and
- (c) For such other and further relief as the nature
of their cause may require.

Robert W. Cannon
Robert W. Cannon
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816

Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Answer
to Petition on Appeal was heretofore served on the County Board
of Appeals of Baltimore County, whose action is appealed from,
by leaving a copy thereof with John Holman
at Room 200, Court House, Towson, Maryland
21204, on this 16th day of May, 1986.

I HEREBY CERTIFY that a copy of the foregoing Answer
to Petition on Appeal was mailed to Stanley H. Miller, Esquire,
Knickerbocker Building, Suite 200, 218 E. Lexington Street,
Baltimore, Maryland 21202, on this 16th day of May, 1986.
Robert W. Cannon

WEINBERG AND GREEN
BALTIMORE, MD 21201

WEINBERG AND GREEN
BALTIMORE, MD 21201

WEINBERG AND GREEN
BALTIMORE, MD 21201

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT HARFORD *
ROAD AND EAST AVENUE FROM * FOR
BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ROBERT W. MOCKARD, ET AL * AT LAW
Plaintiffs * DOCKET NO. 24, FOLIO NO. 102
ZONING FILE NO. R-86-303 * FILE NO.: 86-CG-1262

MOTION TO EXTEND TIME TO TRANSMIT RECORD

Now comes Michael D. Eck, Appellant, by his Attorney, Stanley H. Miller and respectfully represents unto YOUR HONOR:

1. An Appeal was filed on April 4, 1986 by your Movant and subsequent Appeals have been filed by the People's Counsel and by Griffith Chrysler Plymouth.

2. That the parties are presently attempting to resolve all issues in the instant case.

3. That the Transcript of Testimony can be ordered and made ready upon thirty days notice.

4. That all parties have been notified and indicate that they have no objection to the extension of time for the transmittal of the record for a period of ninety days.

WHEREFORE, it is respectfully prayed that the time within which to transmit the transcript and the record of this proceeding be extended for a period of ninety days in accordance with Rule B-7.

STANLEY H. MILLER
Knickerbocker Building, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Appellant

STEIN & MILLER
ATTORNEYS AT LAW
LEXINGTON ST.
MD. 21202-3588
HOME 752-6203

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the MOTION TO EXTEND TIME TO TRANSMIT RECORD was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 1st day of May, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 1st day of May, 1986.

STANLEY H. MILLER

STEIN & MILLER
ATTORNEYS AT LAW
LEXINGTON ST.
MD. 21202-3588
HOME 752-6203

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT HARFORD *
ROAD AND EAST AVENUE FROM * FOR
BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ROBERT W. MOCKARD, ET AL * AT LAW
Plaintiffs * DOCKET NO. 24, FOLIO NO. 102
ZONING FILE NO. R-86-303 * FILE NO.: 86-CG-1262

ORDER

It is this 8th day of May, 1986, by the Circuit Court Court for Baltimore County,

ORDERED that the time to transmit record of appeal be and it is hereby extended until the 1st day of August, 1986.

15/ Nickerson
JUDGE

FILED
COUNTY CLERK
R-86-303
MAY 12 1986

STEIN & MILLER
ATTORNEYS AT LAW
LEXINGTON ST.
MD. 21202-3588
HOME 752-6203

IN THE MATTER OF * IN THE CIRCUIT COURT
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * FOR BALTIMORE COUNTY
PROPERTY LOCATED AT *
HARFORD RD. & EAST AVE. * AT LAW
FROM BL-CS-2 TO BM-CS-2 * Docket No. 24
11th District *
ROBERT W. MOCKARD, ET AL, * Folio No. 102
PLAINTIFFS * File No. 86-CG-1262
ZONING FILE NO. R-86-303

ANSWER TO PETITION ON APPEAL

People's Counsel for Baltimore County, Protestant below and Appellant herein, answers the Petition on Appeal in the above-entitled matter, as follows:

1. Appellant denies Paragraph 1.
2. Appellant denies Paragraph 2.
3. Appellant admits Paragraph 3.
4. Appellant denies Paragraph 4 insofar as it is intended to support a request that the zoning reclassification be granted unconditionally.

WHEREFORE, People's Counsel respectfully requests:

- a. That the appeal filed by Robert W. Mockard, et al be denied; and
- b. That the Court enter an Order denying the zoning reclassification; and
- c. For such other and further relief as the nature of the case requires.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

- 2 -

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2166

I HEREBY CERTIFY that on this 2nd day of April, 1986, a copy of the foregoing Answer to Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, 100 S. Charles St., Baltimore, MD 21201; and Stanley H. Miller, Esquire, Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, MD 21202.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT *
HARFORD ROAD AND EAST AVENUE * FOR
FROM BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ZONING FILE NO. R-86-303 * DOCKET NO. 24
Folio No. 102
File No. 86-CG-1262

PETITION PERFECTING APPEAL FROM ACTION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Robert W. Mockard, Steven R. Griffith, Saied Manochah, Mohamad Pakdaman, Mohammad Manochah, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their successors, Appellants in this case, (hereinafter "Appellants"), by their attorney, Robert W. Cannon, respectfully represents unto Your Honor:

1. That Appellants were the petitioners for the reclassification granted subject to condition in this case by the County Board of Appeals for Baltimore County (the "Board") and have a direct and immediate interest in the subject matter of the appeal herein, which interest has been adversely affected by the action of the Board, to their special harm and damage; and that Appellants are directly aggrieved by the Opinion and Order of the Board, from which they entered the subject appeal, as hereinafter set forth;

2. That pursuant to the provisions of Subtitle B of Chapter 1100 of the Maryland Rules of Procedure, Appellants

WEINBERG AND GREEN
BALTIMORE, MD. 21201

heretofore entered with this Court an appeal from the Order passed by the Board at its March 6, 1986 meeting; and that this Petition, setting forth the action appealed from, the error committed by the Board in taking such action, and the relief sought by Appellants, is designed to perfect such appeal in accordance with the requirements of said Maryland Rules of Procedure;

3. That by its Opinion and Order passed on March 6, 1986, a copy of which is attached to this Petition and incorporated herein by reference, the Board granted, subject to condition, Appellants' request for reclassification of the subject property from BL-CS-2 to BM-CS-2;

4. That the aforesaid March 6, 1986 Opinion and Order of the Board is illegal, invalid and erroneous to the extent that said Opinion and Order conditioned reclassification of the subject property from BL-CS-2 to BM-CS-2 "for the specific purpose of expanding the existing used and new car dealership." Opinion and Order at 4.

WHEREFORE, the Appellants respectfully pray:

(a) That the Order of the County Board of Appeals for Baltimore County be affirmed to the extent that said Order grants reclassification of the subject property from BL-CS-2 to BM-CS-2; and, that said Order be modified in part by deleting the conditioning phrase "for the specific purpose of expanding the existing used and new car dealership"; and,

- 2 -

(b) For such other and further relief as the nature of their cause may require.

Robert W. Cannon
Robert W. Cannon
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition was heretofore served on the County Board of Appeals of Baltimore County, whose action is appealed from, by leaving a copy thereof with June Holman, at Room 200, Court House, Towson, Maryland 21204, this 2nd day of April, 1986.

Robert W. Cannon
Robert W. Cannon

WEINBERG AND GREEN
BALTIMORE, MD. 21201

- 3 -

24/102/8609/46

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, ET AL.

Appellants

vs.

ROBERT W. MOCKARD, ET AL.

Appellees

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CASE NO. 86CG1262

(ZONING MATTER #B-86-303)

OPINION AND ORDER

This case came before the Court on February 11, 1987 on appeal from a decision rendered by the Baltimore County Board of Appeals. Petitioners below, Robert W. Mockard, et al., requested a zoning reclassification of property located at Harford Road and East Avenue from BL-CS-2 to BM-CS-2. The Board granted the reclassification for the specific purpose of expanding the existing used and new car dealership (Griffith Chrysler-Plymouth). Orders for Appeal were filed by three parties: Petitioners; People's Counsel for Baltimore County; and Michael D. Eck, Protestant. The day prior to the hearing before this Court, Michael D. Eck filed a Consent to Judgment in Favor of Robert W. Mockard, et al., so that argument on February 11 was presented only by Petitioners and People's Counsel.

The issues raised on appeal are as follows:

(1) Was the evidence presented to the Board relative to mistake strong enough to render the issue fairly

debatable? [Balto. Co. Code Sec. 2-58.1(j)(1)].

(2) Did the Board make findings as to the factors warranting the reclassification pursuant to Sec. 2-58.1(j)(2) of the Balto. Co. Code?

(3) Was the condition placed on the reclassification erroneous?

The Board decided to grant Petitioner's request for a reclassification in zoning from business local (BL-CS-2) to business major (BM-CS-2). The Board added the condition "for the specific purpose of expanding the existing used and new car dealership". The Board's decision is based upon the "change or mistake" rule set forth in the Baltimore County Code:

Before any property is reclassified pursuant to this section, the board of appeals must find:

(1) That there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error.

Balto. Co. Code 1978, Sec. 2-58.1(j)(1) (1985 Cum. Supp.).

I. Was the evidence presented to the Board relative to mistake strong enough to render the issue fairly debatable?

Petitioners relied on the "mistake" portion of the "change or mistake" rule and argued to the Board that the BL (business local) zoning given to the subject property during the 1984 Comprehensive Zoning Process was an error in light of the

fact that it is surrounded by BM (business major) zones. They offered testimony from three expert witnesses, two of whom testified that in their opinion, a mistake had been made in the 1984 zoning. In addition, a letter from Norman E. Gerber, Director of Planning and Zoning, was accepted into evidence wherein the proposed reclassification was recommended, although no mistake in prior zoning was acknowledged. Photos and a zoning map were also presented to the Board.

This Court is aware that in a zoning appeal the Court may not substitute its judgment for that of the Board. The scope of review is limited to a determination of whether the issue presented to the Board, i.e. mistake, was fairly debatable. If so, the decision must be affirmed by the Circuit Court. Floyd v. County Council of P.G. Co., 55 Md. App. 246, 461 A.2d 76 (1983). However, in order to render the issue of "mistake" fairly debatable, substantial evidence of such mistake must have been presented to the Board. Coppolino v. County Board of Appeals of Baltimore County, 23 Md. App. 358, 328 A.2d 55 (1974). When a Board's finding cannot be said to be "fairly debatable", it is arbitrary, capricious and a denial of due process of law. Turner v. Hammond, 270 Md. 41, 310 A.2d 543 (1973).

This Court will not disturb the Board's decision as to the issue of mistake. The evidence, including photographs, zoning map and expert testimony, presented to the Board was sufficient to create a fairly debatable issue of mistake.

II. Did the Board make findings as to the factors warranting the reclassification pursuant to Sec. 2-58.1(j)(2)?

People's Counsel argues that the written opinion of the Board does not reflect the requisite consideration of factors necessary for a reclassification, as set forth in Sec. 2-58.1(j)(2). This Court agrees. A careful reading of the Code section mandates that a reclassification may be made only upon consideration of factors . . . including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities, water supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities, and other public facilities, and compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water supply facilities, and the capital program.

FILED MAR - 4 1987

In reviewing an agency action, the Court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency. United Steel Workers v. Bethlehem Steel, 298 Md. 665, 472 A.2d 62 (1984). In the instant case, the Board's decision is conclusory in nature and specifically omits findings relative to the factors set forth above. The circuit court may not supply factual findings which were not made by the Board. Ocean Hideaway Condominium, et al. v. Boardwalk Plaza Venture, 68 Md. App. 650 (1986). This Court will remand for findings consistent with Sec. 2-58.1(j)(2).

III. Was the condition placed on the reclassification erroneous?

Both Petitioner and People's Counsel urge that conditional zoning is invalid when the rezoning is accomplished by the open-plat method employed by Petitioners. Although testimony was taken relative to Petitioner's proposed use, their petition for reclassification was not a "specific-site plan" as specified in the Baltimore County Code Sec. 2-58.1(1). In Board of County Commissioners of Washington County v. H. Manny Holtz, Inc., 65 Md. App. 574, 501 A.2d 489 (1985), the Court of Appeals stated:

While we do acknowledge that certain text writers and various states have been attracted to conditional zoning as a valuable planning tool, we are not inclined to construe the statute [Article 66B] to provide for conditional use zoning in Maryland.

Although Sec. 2-58.1(1) provides an exception to the rule enunciated in Holtz, Petitioners did not utilize that provision. It appears that the Board was attempting to mitigate any negative impact which the reclassification may have on the surrounding neighborhood by imposing the condition on the reclassification. However, conditional zoning is not a valid means by which to achieve that result. A more careful determination of the delineated factors should enable the Board to determine whether the prospective classification is, in fact, warranted.

Accordingly, it is this 3rd day of March, 1987, by the Circuit Court for Baltimore County,

ORDERED that the decision of the County Board of Appeals be and the same is hereby REVERSED as to the condition imposed on the reclassification, and further

ORDERED that the case be REMANDED to the County Board of Appeals for findings consistent with this opinion.

William M. Nickerson
WILLIAM M. NICKERSON, JUDGE

COPIES SENT TO:

Robert W. Cannon, Esquire
100 South Charles Street
Baltimore, Maryland 21201

Phyllis C. Friedman, Esquire
Room 223, Court House
Towson, Maryland 21204

Stanley H. Miller, Esquire
Suite 200
218 East Lexington Street
Baltimore, Maryland 21202

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 24 PAGE 102 CASE NO. 86CG1262 CATEGORY APPEAL

ATTORNEYS

IN THE MATTER OF
ROBERT W. MOCKARD, STEVEN R. GRIFFITH, SAIED MAMOCH, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL CS-2 TO BM-CS-2
11th DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166
MICHAEL D. ECK, Protestant
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Stanley H. Miller
Knickerbocker Bldg-Site 200
218 E. Lexington St. (02)
752-6203
Robert W. Cannon
100 South Charles Street
(01) 532-8816

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Peter Max Zimmerman
Rm. 223, Courthouse
(04) 494-2188

3/5/87 P.F. 86-303
(1) April 4, 1986 - Appellant's Order for Appeal from the Decision of the County Board of Appeals of Baltimore County and Petition fd.
(2) April 4, 1986 - People's Counsel for Baltimore County Appeal from the Decision of the County Board of Appeal and Petition fd.
(3) Apr. 4, 1986 - Certificate of Notice fd.
(4) April 7, 1986 - Appellant's Robert W. Mockard, et al Order for Appeal from the Action of the Board of Appeals of Baltimore County fd.
(5) April 7, 1986 - Certificate of Notice fd.
(6) April 17, 1986 - App of Robert W. Cannon as attorney for the appellants same day Petition perfecting appeal from action of the county board of appeals of Baltimore county fd.
(7) Apr. 23, 1986 Protestant's Answer to Petition on Appeal fd.
(8) May 2, 1986 - Appellant's (Michael D. Eck) Motion to Extend Time to Transmit Record fd.
(9) May 16, 1986 - Order of Court that the Time to transmit record of appeal be and it is hereby extended until the 1st day of August, 1986. (REC)
(10) May. 16, 1986 - Correspondence fd.
(11) May. 16, 1986 - Appellant's Mockard et al Answer to Petition for Appeal fd./filed by Michael D. Eck
(12) May. 16, 1986 - Appellants (Mockard) Answer to Petition for Appeal filed by People's Counsel for Balto. Co. fd.
(13) Aug. 1, 1986 - Transcript of Record fd.
(14) Aug. 1, 1986 - Notice of Filing of Record fd.
(15) Aug. 25, 1986 - People's Counsel's Memorandum fd.
(16) Aug. 29, 1986 - Appellants' Motion to Extend Time to File Memoranda and Order of Court that the time to file memoranda pursuant to MD Rule of Procedure B12 be and it is hereby extended until the 29th day of October, 1986. (MDR, REC)
(over)

DOCKET 24 PAGE 102 CASE NO. 86CG1262

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-86-303
Item #165

OPINION

The above captioned matter comes before this Board on a
Petition for Reclassification out of cycle.

Testimony and evidence was received by this Board on Wednes-
day, February 12, 1986.

Petitioner's Exhibit 2, pictorially describes the existing
zoning on the subject site as well as the property Petitioner now seeks to
rezone.

Witnesses for the Petitioner testified, over objection by the
People's Counsel, that the intended use of the subject site was for the expan-
sion of the new and used car dealership of Griffith Chrysler-Plymouth. The
basis of People's Counsel's objection was the failure of the Petitioner to
submit a specific site plan.

William F. Kirwin, an expert land planner and architect,
testified that he believed the County Council committed error in the 1984
zoning maps. He also stated that the requested reclassification would be
consistent with the surrounding classifications, would comply with the 502.1
requirements of the Baltimore County Zoning Regulations and would provide a
reasonable use for the subject property.

John W. Guckert, a Traffic Engineer, testified that in his
opinion the reclassification of the subject site would not adversely affect
traffic flow or result in increased congestion.

Robert W. Mockard, et al
Case No. R-86-303

Mr. Guckert's testimony was questioned by the Protestants, however, it is
apparent that the Protestants' questions concerned Mr. Guckert's description
of East Avenue and Harford Road as a level A intersection rather than the
resultant change of traffic flow and/or congestion resulting from a reclassifi-
cation of the subject property.

Frederick P. Klaus, a real estate consultant, testified that
in his opinion the County Council had committed error, that he was certain a
BM classification rather than BL would have been placed on the subject property
during the 1984 Comprehensive Zoning Process if it had been an issue and further
that the reclassification of the subject property would comply with the 502.1
requirements of the Baltimore County Zoning Regulations.

James Hoswell, land planner for Baltimore County, testified
that the present zoning of the subject property provides for a reasonable use
of same. Through Mr. Hoswell, a letter dated January 27, 1986, directed to
the Board of Appeals from Norman E. Gerten, Director of Planning and Zoning,
was introduced as Petitioner's Exhibit 7. Mr. Hoswell stated that said letter
was written with the knowledge that the requested reclassification was on an
open site plan. Nevertheless, said letter recommends the requested
reclassification.

It is also interesting to note that this Petition for
Reclassification was exempted by the County Council from the normal cyclical
procedures. This Board is persuaded that such unusual action by the County
Council demonstrates the possibility that the County Council may believe error
was committed during the 1984 Comprehensive Zoning Process.

Three witnesses were produced by the Protestants.

Robert W. Mockard, et al
Case No. R-86-303

The first witness, Mr. Maurice Barsotti, stated his primary
concern was traffic congestion and the attendant effect the reclassification
of the subject property will have on East Avenue. Mr. Barsotti also mentioned
the possibility of an increase in crime in the area if the reclassification is
granted.

Mrs. Mary Eck and Robert Eck reiterated Mr. Barsotti's con-
cern about increased traffic. They also questioned the specific uses intended
by the Petitioners should the reclassification request be granted. Given the
extensive number and types of uses permitted in a BM zone, Mr. and Mrs. Eck
were, justifiably, we believe, concerned with the proliferation of traffic and
commercialization and industry in the area. Both Mr. and Mrs. Eck acknow-
ledged, however, that they had no particular objection to the expansion of the
car dealership.

After having considered all of the evidence, this Board is
persuaded that the concerns expressed by Mr. Barsotti and Mr. and Mrs. Eck
are legitimate. Life and the quality of that life is precious and the
reclassification of the subject site shall impact this neighborhood. However,
we are also persuaded that the County Council did commit error in not classi-
fying the subject site BM during the 1984 zoning process. The subject
properties are surrounded by BM zones. Only across Harford Road, on the
other side of the street, are these other BL and BM zones. No CR zones are
adjacent or contiguous to the subject property.

This Board is also cognizant of the fact that the Court of
Appeals has consistently stated that a more liberal standard is employed when
considering a reclassification from one commercial zone to another. At the
same time, however, we cannot be oblivious to the problems anticipated by the
surrounding neighborhood.

Robert W. Mockard, et al
Case No. R-86-303

The Petitioners' property and that upon which they are
contract purchasers is peculiarly laid out. Although the particular property
sought to be reclassified is not contiguous to a CR zone, much of the balance
of Petitioners' property is so situated. Consequently, a specific site plan,
obviously, would be preferred. Unfortunately none exists. Nevertheless, the
Board cannot ignore what we believe to be obvious error. We can, however,
endeavor to correct that error while protecting the quality of life of the
surrounding neighborhood.

This Board shall, therefore, grant the requested reclassifica-
tion for the specific purpose of expanding the existing used and new car
dealership.

O R D E R

For the reasons set forth in the foregoing Opinion, it is
this 12th day of March, 1986, by the County Board of Appeals,
ORDERED that the Petition for Reclassification from BL-CS-2 to BM-CS-2 be
and the same is GRANTED for the specific purpose of expanding the existing
used and new car dealership.

Any appeal from this decision must be in accordance with
Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

William F. Kirwin

John W. Guckert

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

ROBERT W. MCKARD, ET AL,
PLAINTIFFS

Doc. No. 24

ZONING FILE NO. R-86-303

Folio No. 102

File No. 84-1262

CERTIFICATE OF NOTICE

Mr. Clerks:

Pursuant to the provisions of Rule B-2(d) of the Maryland
Rules of Procedure, William T. Hackett, LeRoy B. Spurrier and William B. Evans,
constituting the County Board of Appeals of Baltimore County, have given notice
by mail of the filing of the appeal to the representative of every party to the
proceeding before it; namely, Robert W. Cannon, Esq., Weinberg & Green,
100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners-Plaintiffs;
Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Protestant; Stanley H.
Miller, Esq., Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore,
Md. 21202, Counsel for Protestant; and Phyllis C. Friedman, Court House,
Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which
Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
410-3153

Robert W. Mockard, et al
Case No. R-86-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of
Notice has been mailed to Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles
St., Baltimore, Md. 21201, Counsel for Petitioners-Plaintiffs; Michael D. Eck,
9304 Carney Rd., Baltimore, Md. 21234, Protestant; Stanley H. Miller, Esq.,
Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, Md. 21202,
Counsel for Protestant; and Phyllis C. Friedman, Court House, Towson, Md. 21204,
People's Counsel for Baltimore County, on this 12th day of April, 1986.

June Holmen
County Board of Appeals of Baltimore
County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

April 9, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles Street
Baltimore, Md. 21201

Dear Mr. Cannon:

Re: Case No. R-86-303
Robert W. Mockard, et al

In accordance with Rule B-7 (a) of the Rules of
Procedure of the Court of Appeals of Maryland, the County
Board of Appeals is required to submit the record of pro-
ceedings of the appeal which you have taken to the Circuit
Court for Baltimore County in the above matter within thirty
days.

The cost of the transcript of the record must be paid
by you. Certified copies of any other documents necessary
for the completion of the record must also be at your
expense.

The cost of the transcript, plus any other documents,
must be paid in time to transmit the same to the Circuit
Court not later than thirty days from the date of any
petition you might file in court, in accordance with Rule
B-7 (a).

Enclosed is a copy of the Certificate of Notice, also
invoice covering the cost of certified copies of necessary
documents.

Very truly yours,

June Holmen, Secretary

Encls.



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

April 9, 1986

Stanley H. Miller, Esq.
Suite 200, Knickerbocker Bldg.
218 E. Lexington Street
Baltimore, Md. 21202

Dear Mr. Miller:

Re: Case No. R-86-303
Robert W. Mockard, et al

Notice is hereby given, in accordance with
the Rules of Procedure of the Court of Appeals of Maryland,
that an appeal has been taken to the Circuit Court for
Baltimore County from the decision of the County Board
of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate
of Notice.

Very truly yours,

June Holmen, Secretary

Encl.

cc: Michael D. Eck
Phyllis C. Friedman
Arnold Jackson
Jean Jurek
James Dyer
Norman Gerten
James Hoswell

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11TH DISTRICT

BEFORE THE
BOARD OF APPEALS
OF
BALTIMORE COUNTY

ORDER FOR APPEAL OF ROBERT W. MOCKARD, ET AL.
FROM ACTION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY

MR. CLERK:

Please enter an appeal on behalf of Robert W. Mockard, Steven R. Griffith, Saie' Manocheh, Mohamad Pakdaman, Mohammad Manocheh, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their successors, Applicants, from the Order of the Board of Appeals of Baltimore County passed in the above entitled case on March 6, 1986, to the extent that said Order conditioned reclassification of the subject property from BL-CS-2 to BM-CS-2 for the specific purpose of expanding the existing used and new car dealership.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816

Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was heretofore served on the Board of Appeals of Baltimore County, whose action is appealed from, by leaving a copy thereof with *Elizabeth B. Brooks*, at Room 200, Court House, Towson, Maryland 21204, this 7th day of April, 1986.

Elizabeth B. Brooks
Elizabeth B. Brooks

COUNTY BOARD OF APPEALS
ROOM 200 - 1 P 3 11

- 2 -

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVENUE
FROM BL-CS-2 TO BM-CS-2 11TH DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Doc. No. 24
Folio No. 102
File No. B6-CG-1242

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, LeFoy B. Spurrier and William R. Evans, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeals to the representative of every party to the proceeding before it; namely, Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 218 E. Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Road, Baltimore, Md. 21234, Contract Purchaser, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holman
June Holman
County Board of Appeals of Baltimore County, Room 200, Court House Towson, Md. 21204
444-2160

Robert W. Mockard, et al
Case No. B-66-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 218 East Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles St., Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Rd., Baltimore, Md. 21234, Contract Purchaser, on this 4th day of April, 1986.

June Holman
June Holman
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

Stanley H. Miller, Esq.
Knickerbocker Bldg., Suite 200
218 E. Lexington St.
Baltimore, Md. 21202

Re: Case No. B-66-303
Robert W. Mockard, et al

Dear Mr. Miller:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holman
June Holman, Secretary

Encls.
cc: Michael D. Eck



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

People's Counsel for Baltimore County
Court House
Towson, Md. 21204

Gentlemen:

Re: Case No. B-66-303
Robert W. Mockard, et al

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holman
June Holman, Secretary

Encls.



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Dear Mr. Cannon:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holman
June Holman, Secretary

Encl.
cc: Steven R. Griffith
Arnold Jablon
Joan Jung
James Dyer
Norman Garter
James Maxwell

COUNTY BOARD OF APPEALS

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11TH DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166

CIRCUIT COURT
FOR
BALTIMORE COUNTY
DOCKET NO.:

NOTICE OF APPEAL

Please note an Appeal from the decision of the County Board of Appeals of Baltimore County in the above captioned matter under date of March 6, 1986 to the Circuit Court for Baltimore County and forward all papers to the Court for Hearing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the ORDER FOR APPEAL was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 4th day of April, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 4th day of April, 1986.

STANLEY H. MILLER
Knickerbocker Building, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Michael D. Eck,
Protestant

JOLESTEIN & MILLER
ATTORNEYS AT LAW
218 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-6203

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166

PETITION FOR APPEAL

Michael D. Eck, Protestant before the County Board of Appeals and Appellant herein, having heretofore filed a Notice of Appeal from the opinion and Order of the County Board of Appeals dated March 6, 1986 in compliance with Rule B2e files this Petition setting forth the action appealed from and the grounds under which the Appeal is taken.

1. The County Board of Appeals decision and Order granting the Petition for reclassification from BL-CS-2 to BM-CS-2 was based upon no legally sufficient evidence upon which to base its conclusions.
2. That the decision of the County Board of Appeals was contrary to the evidence and that the County Board of Appeals was erroneous in its application of the law and the facts.
3. That the decision of the County Board of Appeals was illegal, arbitrary and capricious.
4. And for such other and further reasons as will be given at the hearing on this matter.

STANLEY H. MILLER
KNICKERBOCKER BUILDING, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Michael D. Eck,
Protestant

OLDSTEIN & MILLER
ATTORNEYS AT LAW
18 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-8203

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the PETITION FOR APPEAL was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 4th day of April, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 4th day of April, 1986.

STANLEY H. MILLER

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 1986

OLDSTEIN & MILLER
ATTORNEYS AT LAW
18 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-8203

IN THE MATTER OF THE PETITION :
FOR RECLASSIFICATION FROM :
B.L.-C.S.-2 TO B.M.-C.S.-2 ZONE :
NE Corner Harford Rd. & East Ave., :
11th District :
AT LAW :
ROBERT W. MOCKARD, Petitioner :
Docket No. 24 :
Zoning File No. R-86-303 :
Folio No. 102 :
File No. 66CG1262 :

NOTICE OF APPEAL

Please note an appeal from the decision of the County Board of Appeals of Baltimore County in the above-captioned matter, under date of March 6, 1986, to the Circuit Court for Baltimore County, and forward all papers in connection therewith to the Court for hearing.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2168

I HEREBY CERTIFY that on this 4th day of April, 1986, a copy of the foregoing Notice of Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201.

Phyllis Cole Friedman
Phyllis Cole Friedman

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 1986

IN THE MATTER OF THE PETITION :
FOR RECLASSIFICATION FROM :
B.L.-C.S.-2 TO B.M.-C.S.-2 ZONE :
NE Corner Harford Rd. & East Ave., :
11th District :
AT LAW :
ROBERT W. MOCKARD, Petitioner :
Docket No. 24 :
Zoning File No. R-86-303 :
Folio No. 102 :
File No. 66CG1262 :

PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellant herein, having heretofore filed a Notice of Appeal from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of March 6, 1986, in compliance with Maryland Rule B-2(e), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. That it was prejudicial error for the Board of Appeals to admit evidence concerning the proposed use of the subject site if the rezoning was obtained.
 2. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the requested reclassification was warranted, and therefore their Order passed herein is illegal, arbitrary, and capricious.
- WHEREFORE, Appellant prays that the Order of the County Board of Appeals under date of March 6, 1986 be reversed, and that the zoning classification of the subject property remain at B.L.-C.S.-2.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

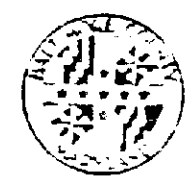
- 2 -

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2168

I HEREBY CERTIFY that on this 4th day of April, 1986, a copy of the foregoing Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles ST., Baltimore, MD 21201.

Phyllis Cole Friedman
Phyllis Cole Friedman

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 1986



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
April 3, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Re: Case No. R-86-303
Robert W. Mockard, et al

Dear Mr. Cannon:

Enclosed herewith please find copy of Motion to Strike and for Expedited Proceedings which was denied by the Board this date.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Phyllis C. Friedman
Arnold Jablon
Jean Jung
James Dyer
Norman Gember
James Roswell

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT
No. R-86-303
Item #166

MOTION TO STRIKE AND FOR EXPEDITED PROCEEDINGS

Petitioners, Steven R. Griffith and Mobil Oil Corporation, by their attorney, Robert W. Cannon, respectfully move that the Board strike the last paragraph of the Opinion and the entire Order issued herein on March 6, 1986, to allow time for discussions among counsel for each party as to an appropriate form of the Order and the subsequent determination by the Board of an acceptable form of the Order, during which time the Board shall retain jurisdiction over this matter.

Petitioners also move for an expedited hearing on this motion on the ground that the 30 day period during which the Board has revisory power and control over the Order pursuant to Rule 10 of the Rules of Practice and Procedure of the County Board of Appeals expires on April 5, 1986.

People's Counsel has been consulted and have advised Petitioner's attorney that they have no objection to the entry of the herein requested Order.

WHEREFORE, in accordance with the foregoing Motion, and the proposed Order set forth below, Petitioners pray that the Board issue an Order striking the last paragraph of the Opinion and the entire Order issued herein on March 6, 1986, pending reconsideration of the form of said Order.

Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8916
Attorney for Petitioners

ORDER

For the reasons set forth in the foregoing Motion, it is this ____ day of April, 1986, by the County Board of Appeals, ORDERED that the last paragraph of the Opinion and the entire Order granted herein on March 6, 1986 be struck, pending reconsideration of the form of said Order, during which time the Board shall retain jurisdiction over this matter.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans
William R. Evans

Lesley B. Spurrier
Lesley B. Spurrier

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12 day of April, 1986, a copy of the foregoing Motion to Strike and For Expedited Proceedings was served on People's Counsel, by leaving a copy thereof with Shirley M. Hess, at Room 223, Court House, Towson, Maryland 21204.

Robert W. Cannon
Robert W. Cannon
Attorney for Petitioners

RECEIVED
COUNTY BOARD OF APPEALS
11 APR - 1 P 3-25

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM EL-GS-2 to EM-GS-2
11th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-86-303
Item #166

OPINION

The above captioned matter comes before this Board on a Petition for Reclassification out of cycle.

Testimony and evidence was received by this Board on Wednesday, February 12, 1986.

Petitioner's Exhibit 2, pictorially describes the existing zoning on the subject site as well as the property Petitioner now seeks to rezone.

Witnesses for the Petitioner testified, over objection by the People's Counsel, that the intended use of the subject site was for the expansion of the new and used car dealership of Griffith Chrysler-Plymouth. The basis of People's Counsel's objection was the failure of the Petitioner to submit a specific site plan.

William F. Kirwin, an expert land planner and architect, testified that he believed the County Council committed error in the 1984 zoning maps. He also stated that the requested reclassification would be consistent with the surrounding classifications, would comply with the 502.1 requirements of the Baltimore County Zoning Regulations and would provide a reasonable use for the subject property.

John W. Guckert, a Traffic Engineer, testified that in his opinion the reclassification of the subject site would not adversely affect traffic flow or result in increased congestion.

Robert W. Mockard, et al
Case No. R-86-303

Mr. Guckert's testimony was questioned by the Protestants, however, it is apparent that the Protestants' questions concerned Mr. Guckert's description of East Avenue and Harford Road as a level A intersection rather than the resultant change or traffic flow and/or congestion resulting from a reclassification of the subject property.

Frederick P. Klaus, a real estate consultant, testified that in his opinion the County Council had committed error, that he was certain a BM classification rather than EL would have been placed on the subject property during the 1984 Comprehensive Zoning Process if it had been an issue and further that the reclassification of the subject property would comply with the 502.1 requirements of the Baltimore County Zoning Regulations.

James Hoswell, land planner for Baltimore County, testified that the present zoning of the subject property provides for a reasonable use of same. Through Mr. Hoswell, a letter dated January 27, 1986, directed to the Board of Appeals from Norman E. Gerber, Director of Planning and Zoning, was introduced as Petitioner's Exhibit 7. Mr. Hoswell stated that said letter was written with the knowledge that the requested reclassification was on an open site plan. Nevertheless, said letter recommends the requested reclassification.

It is also interesting to note that this Petition for Reclassification was exempted by the County Council from the normal cyclical procedures. This Board is persuaded that such unusual action by the County Council demonstrates the possibility that the County Council may believe error was committed during the 1984 Comprehensive Zoning Process.

Three witnesses were produced by the Protestants.

Robert W. Mockard, et al
Case No. R-86-303

The first witness, Mr. Maurice Barsotti, stated his primary concern was traffic congestion and the attendant effect the reclassification of the subject property will have on East Avenue. Mr. Barsotti also mentioned the possibility of an increase in crime in the area if the reclassification is granted.

Mrs. Mary Eck and Robert Eck reiterated Mr. Barsotti's concern about increased traffic. They also questioned the specific uses intended by the Petitioners should the reclassification request be granted. Given the extensive number and types of uses permitted in a BM zone, Mr. and Mrs. Eck were, justifiably, we believe, concerned with the proliferation of traffic and commercialization and industry in the area. Both Mr. and Mrs. Eck acknowledged, however, that they had no particular objection to the expansion of the car dealership.

After having considered all of the evidence, this Board is persuaded that the concerns expressed by Mr. Barsotti and Mr. and Mrs. Eck are legitimate. Life and the quality of that life is precious and the reclassification of the subject site shall impact this neighborhood. However, we are also persuaded that the County Council did commit error in not classifying the subject site BM during the 1984 zoning process. The subject properties are surrounded by BM zones. Only across Harford Road, on the other side of the street, are these other EL and PR zones. No PR zones are adjacent or contiguous to the subject property.

This Board is also cognizant of the fact that the Court of Appeals has consistently stated that a more liberal standard is employed when considering a reclassification from one commercial zone to another. At the same time, however, we cannot be oblivious to the problems anticipated by the surrounding neighborhood.

Robert W. Mockard, et al
Case No. R-86-303

The Petitioners' property and that upon which they are contract purchasers is peculiarly laid out. Although the particular property sought to be reclassified is not contiguous to a PR zone, much of the balance of Petitioners' property is so situated. Consequently, a specific site plan, obviously, would be preferred. Unfortunately none exists. Nevertheless, this Board cannot ignore what we believe to be obvious error. We can, however, endeavor to correct that error while protecting the quality of life of the surrounding neighborhood.

This Board shall, therefore, grant the requested reclassification for the specific purpose of expanding the existing used and new car dealership.

O R D E R

For the reasons set forth in the foregoing Opinion, it is this 6th day of March, 1986, by the County Board of Appeals, ORDERED that the Petition for Reclassification from EL-GS-2 to EM-GS-2 be and the same is GRANTED for the specific purpose of expanding the existing used and new car dealership.

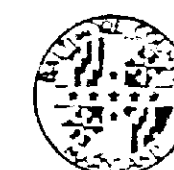
Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Robert W. Cannon
Robert W. Cannon, Esquire

Robert W. Cannon
Robert W. Cannon, Esquire



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

March 6, 1986

Robert W. Cannon, Esq.
Stephen Rosen, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Case No. R-86-303
Robert W. Mockard, et al

Gentlemen:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,
Jane Holmer
Jane Holmer, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Frederick C. Friedman
Arnold Nelson
Jean Jung
James Dyer
Norman Gerber
James Hoswell



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-0553

ARNOLD JASON
ZONING COMMISSIONER
February 5, 1986

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Robert W. Mockard, et al - Petitioners
Case No. R-86-303

Dear Mr. Cannon:

This is to advise you that \$100.67 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Office, Room 113, County Office Building, hearing.

Sincerely,
Arnold Jason
Arnold Jason
Zoning Commissioner

TO: CPA-June
Date: 2-14-86 Time: 11:20 AM
WHILE YOU WERE OUT
M. Jason
J. Mark
Phone: 494-0553
Area Code: 410 Number: 494-0553 Extension: 553
TELEPHONED: ☐ PLEASE CALL
CALLED TO SEE YOU: ☐ WILL CALL AGAIN
WANTS TO SEE YOU: ☐ URGENT
RETURNED YOUR CALL: ☐
Message: R-86-303 was paid on Feb 12 1986
11:20 AM
Campbell 06301

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

January 10, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Petitioners: Robert W. Mockard, et al.
Case No. R-86-303

TIME: 10:00 A.M.

DATE: Wednesday, February 12, 1986

PLACE: Room 218, Courthouse, Towson, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 00000 W. T. Hackett
Hackett, Chairman
Board of Appeals

DATE: 2/14/86 ACCOUNT: 100.67

AMOUNT: \$ 100.67

RECEIVED FROM: Robert W. Cannon

FOR: Advertising and Posting

VALIDATION OR CHECK BY FIELD OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William T. Hackett, Chairman
To County Board of Appeals Date: November 22, 1985

Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning

Zoning Reclassification Petition No. R-86-303
SUBJECT: Property Owners: Robert W. Mockard, et al

This 2.48-acre tract is part of a 14.5-acre property located on the northeast side of Harford Road at East Avenue. The portion of the property that is the subject of this petition is zoned B.L.-C.S.-2. On the opposite side of Harford Road are properties zoned B.L.-C.S.-2 and B.R.-C.S.-2, respectively. All of the remainder of the properties abutting the subject site and all of the remainder of the entire 14.5-acre property are zoned B.M., with a portion having a C.S.-2 District designation. The petition is proposing that the zoning classification of the subject 2.48-acre parcel of land be changed from B.L.-C.S.-2 to B.M.-C.S.-2, thereby placing the entire 14.5-acre property in the B.M. zoning classification.

This petition was exempted by action of the County Council from the normal cyclical procedures. At that time, the petitioner's representative stated that the overall property has been assembled for the purpose of razing the existing structures and constructing a new car dealership here.

It is this office's opinion that the petitioner's request should be granted. The replacement of the existing strip commercial use and of the Weber Storage and Moving operation with a single development would be expected to reduce traffic congestion at the site. Certainly, the problems experienced by the community with the Weber operation would be resolved. Further, through the future processing by the County of plans for the entire site, the opportunity exists to improve access to the entire property as well as buffering to protect the adjacent residential area; the County has been virtually powerless to address these concerns while faced with the existing use here.

It is therefore recommended that the petitioner's request be granted. It is this office's opinion that the resultant homogeneous zoning classification for the entire property coupled with the proposed redevelopment would be in the public interest.

Norman E. Gerber
Norman E. Gerber, AICP
Director

NEG:slm

cc: Phyllis Cole Friedman
Robert W. Cannon
J.G. Hisswell

3 SEP 24 1985
STREET ADDRESS
CITY

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE MD 21201

FIRM TELEPHONES
BALTIMORE (301) 332-8800
WASHINGTON AREA (202) 546-9000
TELECOPIER (301) 332-8803

WRITER'S DIRECT DIAL NUMBER

(301) 332-8816

January 8, 1986

BY HAND DELIVERY

Mr. James E. Dyer
Zoning Office
First Floor,
County Office Building
Towson, Maryland 21204

Re: Zoning Reclassification Petition
Mockard, et al.
Harford Road

Dear Jim:

In accordance with our discussion enclosed you will find the amended legal description we have prepared to reflect the fact that this description follows the zoning lines. Two (2) copies are enclosed so that one can be utilized in connection with the publication.

I will supply you with copies of the description which have been sealed within a short time.

Thank you for your assistance.

Sincerely yours,

Robert W. Cannon
Robert W. Cannon

081/amr
Enclosure

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Thomas Toporovich
To: County Council Secretary - Administrator Date: November 22, 1985

Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning

Zoning Reclassification Petition: Steven R. Griffith, et al
SUBJECT: Request for exemption from cyclical procedures

At its meeting on November 21, 1985, the Baltimore County Planning Board certified to the County Council that early action on the subject Zoning Reclassification Petition would be in the public interest. I would appreciate your scheduling this item for Council consideration as soon as possible.

Thank you for your cooperation in this matter.

Norman E. Gerber
Norman E. Gerber, AICP
Director of Planning and Zoning

NEG:slm

attachments

cc: The Honorable Donald P. Hutchinson
County Executive

B. Melvin Cole
County Administrative Officer

William T. Hackett, Chairman
County Board of Appeals

Malcolm Spicer
County Solicitor

Phyllis Cole Friedman
People's Counsel

James E. Dyer
Zoning Supervisor

Robert W. Cannon, Esquire.

BALTIMORE COUNTY PLANNING BOARD

RESOLUTION

November 21, 1985

WHEREAS, Pursuant to Subsection 2-58.1(1) of the Baltimore County Code 1973 as amended, the Baltimore County Planning Board has reviewed the request by Steven R. Griffith, et al to exempt from zoning cycle the subject reclassification petition; and

WHEREAS, The Planning Board believes that early action is required on this petition to provide for consideration of the timely expansion and benefits therefrom; therefore, be it

RESOLVED, That the Baltimore County Planning Board hereby certifies to the County Council of Baltimore County that early action on the subject Zoning Reclassification Petition would be in the public interest.

I HEREBY CERTIFY that the above resolution was duly adopted by the Baltimore County Planning Board at its meeting in Towson, Maryland, on November 21, 1985.

Norman E. Gerber
Norman E. Gerber, AICP
Secretary of the Baltimore County
Planning Board

Date

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MD. 21201

FIRM TELEPHONES
BALTIMORE (301) 332-8800
WASHINGTON AREA (202) 546-9000
TELECOPIER (301) 332-8803

WRITER'S DIRECT DIAL NUMBER

(301) 332-8816

October 30, 1985

Mr. Norman Gerber,
Director
Office of Planning and
Zoning
Room 406
County Courts Building
Towson, Maryland 21204

Re: Petition of Steven R. Griffith, Saied Manocheh, Mohammad Pakdaman, Mohammad Manocheh, Ezzatollah Vahedi-Faridi, Mohammed-Hossein Tehrani, Robert W. Mockard and Mobil Oil Corporation (the "Petitioners") for Zoning Reclassification of Property Located at Harford Road and East Avenue

Dear Mr. Gerber:

On behalf of the Petitioners, we respectfully request that the subject petition for zoning reclassification be exempted from the cyclical zoning reclassification procedures and that your office recommend to the Planning Board that it certify to the County Council that early action upon said petition is manifestly required in the public interest or because of an emergency.

Early action by the Baltimore County Board of Appeals on the subject petition is manifestly required in the public interest. Steven R. Griffith ("Griffith") is presently involved in serious negotiations with an automobile manufacturer with the goal of adding a new automobile retail franchise operation to Griffith's current retail automobile operations located on property adjacent to the property for which the zoning reclassification is requested. In conjunction with the addition of this new franchise, Griffith plans to improve and expand his current operations, resulting in a large and modern automobile sales and service operation for both the current automobile franchise and the proposed new franchise. This new facility would substantially increase Griffith's overall sales and work force.

WEINBERG AND GREEN

Mr. Norman Berger
October 30, 1985
Page 2

resulting in additional employment and an expanded tax base for Baltimore County. In this regard, Griffith has contracted with his co-Petitioners to purchase several parcels of property adjacent to Griffith's current facility, portions of which parcels are located within a BL-CS-2 zone. In order to proceed with Griffith's plans, a reclassification of the property located within the BL zone must be granted.

The automobile manufacturer is requiring that the negotiations for the new dealership be concluded within a short period of time and is unable to defer its decision regarding the dealership for a period of time sufficient to allow Petitioners to request the zoning reclassification during the normal zoning cycle. Failure to obtain an expeditious decision with respect to the subject petition could, therefore, block the awarding of this new franchise to Griffith, resulting in the potential loss of an important new business in Baltimore County. In short, this is an emergency situation. Time is of the essence in this transaction and deferring the hearing of Petitioners' request by the Board of Appeals until late next year would almost certainly destroy the prospects of adding a substantial and important new business to the County.

As noted in Petitioners' petition, this reclassification is warranted by a substantial change in the character of the neighborhood and by error in the classification of the property in the last comprehensive zoning map revision. Further, the public interest would be well served by the razing and elimination of the Weber Moving and Storage facility. The Weber facility is in a poor and unsightly condition and its operation results in a substantial amount of tractor-trailer truck traffic into and out of the storage facility. The construction of modern, safe and clean improvements in place of the Weber facility would clearly improve the health, safety and general welfare of the public. Petitioners' inability to promptly secure the new automobile franchise would almost certainly block both the vitally required improvements to the Weber site and the implementation of a prime economic opportunity for Baltimore County.

Thank you for your consideration of this request.

Very truly yours,

Robert W. Cannon
Robert W. Cannon

238/cwp

cc: Hon. Kenneth W. Dryden, Chairman - Planning Board
Hon. James T. Smith, Jr., Chairman - County Council
Hon. Eugene W. Gallagher

IN THE MATTER OF THE PETITION
OF STEVEN R. GRIFFITH,
SAIED MANOCHEH, MOHAMAD PAKDAMAN,
MOHAMMED MANOCHEH,
EZZATOLLAH VAHEDI-FARIDI,
MOHAMMAD-HOSSEIN TEHRANIAN,
ROBERT W. MOCKARD, AND MOBIL
OIL CORPORATION FOR ZONING
RECLASSIFICATION OF CERTAIN
PARCELS OF LAND IN THE VICINITY
OF HARFORD ROAD AND EAST AVENUE

BEFORE THE
BALTIMORE COUNTY
BOARD OF
APPEALS

STATEMENT IN SUPPORT OF
PETITION FOR ZONING RECLASSIFICATION

Steven R. Griffith, Saied Manocheh, Mohamad Pakdaman, Mohammad Manocheh, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehrani, Robert W. Mockard and Mobil Oil Corporation ("Petitioners"), in support of their Petition for Zoning Reclassification filed herein, state that:

1. The Petitioners request a change in the zoning classification of certain parcels of land located at the southwest and southeast intersections of Harford Road and East Avenue, as shown on the plat attached hereto (the "Property") from a BL-CS-2 zone (business local) to a BM-CS-2 zone (business major).

2. An error in the classification of the Property in the 1984 comprehensive zoning map revision process and a substantial change in the character of the neighborhood in which the Property is located justifies reclassification of the Property from a BL to a BM zone.

3. As the attached plat indicates, the Property is bounded by Harford Road on one side and BM zoned land to the other three sides. The Property was obviously overlooked during the previous comprehensive zoning map revision process and was left surrounded primarily by property with a higher use classification. Extension of the surrounding BM zone into the Property would complete the desirable reclassification of the surrounding area into contiguous BM zoned land, unbroken by pockets of BL zoned parcels. The present erroneous classification of the Property prohibits uses compatible with the present and future development and characteristics of the surrounding BM zoned areas. Thus, reclassification of the zoning for the Property to a BM zone would allow for development of the Property in a planned orderly manner more closely in keeping with the dominant land use of the surrounding area.

4. The requested zoning reclassification would not affect the availability and adequacy of the present transportation facilities, water-supply facilities, waste-water facilities, or other public facilities which serve the area. Adoption of the BM zone for the Property would in no manner be detrimental to the health, safety or general welfare of the public in the surrounding area. If the requested zoning reclassification is granted, the then available uses for the Property and surrounding area would eliminate the substantial amount of tractor-trailer truck

traffic into and out of the Weber Moving and Storage facility located on an adjacent parcel. The elimination of the Weber facility, which is in a poor and unsightly condition, and the construction in its place of safe, sanitary and modern improvements would clearly be in the public interest.

For all of the foregoing reasons, the Petitioners respectfully request that their petition for zoning reclassification be granted.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816

Attorney for Petitioner

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY,
Appellant
v.
ROBERT W. MOCKARD, et al.,
Appellees

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Case No. 86-CG-1262

NOTICE OF APPEAL

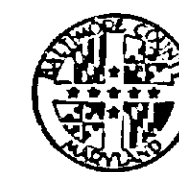
Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in the above-captioned matter, under date of March 3, 1987, and forward all papers in connection with said matter to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 2nd day of April, 1987, a copy of the foregoing Notice of Appeal was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201; and Stanley H. Miller, Esquire, Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, MD 21202.

Phyllis Cole Friedman
Phyllis Cole Friedman



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

July 21, 1987

Howard E. Friedman, Clerk
Court of Special Appeals
of Maryland
Annapolis, MD 21401-1698

Re: Case No. 86-CG-1262
(Robert W. Mockard, et al)

Dear Mr. Friedman:

We would appreciate your noting our request for a copy of the Opinion in the above-entitled case when it is filed by the Court of Special Appeals.

Thank you.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Secretary

ROBT. W. MOCKARD, ET AL

R-86-303, Item 166

Harford Rd. and East Ave.

11th District

BL-CS-2 to BM-CS-2

| Date | Action |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| Dec. 12, 1985 | Petition filed |
| Feb. 12, 1986 | Hearing before the Board |
| March 6 | Order of the Board GRANTING the reclassification for the purpose of expanding the existing use and new car dealership. |
| Apr. 4 | Order for Appeal filed in the Cir. Ct. by Phyllis C. Friedman, People's Counsel |
| Apr. 4 | Order for Appeal filed in the Cir. Ct. by Stanley Miller, Esq. on behalf of Michael L. Eck, protestant. |
| Apr. 4 | Certificate of Notice sent out |
| Apr. 7 | Order for Appeal filed in the Cir. Ct. by Robt. W. Cannon, Esq., on behalf of Petitioners. |
| Apr. 9 | Certificate of Notice sent out |
| May 8 | Extension of Time to Transmit Record |
| Aug. 1, 1986 | Record of proceedings filed in the Cir. Ct. for Balto. County |
| Aug. 25 | PC's Memo filed in Cct. |
| Aug. 29 | Extension of Time to File Memoranda to 29th day of October 1986 |
| Oct. 29 | Petitioner's Memorandum filed. |
| Feb. 10, 1987 | Appellant's (Michael D. Eck) Consent to Judgment in Favor of Robert W. Mockard, et al filed |
| Feb. 11 | Hearing had; Opinion order to be filed. (Hon. William M. Mickerson) |
| March 4 | REVERSED condition imposed on reclassification; REMENDED to CBA for findings consistent with Sec. 2-5B.1(j)(2), Co Code, 1978 Ed., as amended |
| April 2 | Notice of Appeal filed by PC to Ct of Special Appeals |
| December 7 | Circuit Court AFFIRMED by CSA. |

PETITION FOR ZONING RE-CLASSIFICATION
SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law

of Baltimore County, from an BL-CS-2 zone to an BM-CS-2 zone, for the reasons given in the attached statement; and (2) for a Special Exception under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for

and (3) for reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County:

NE 9-5
4-C
1174
1-C
300

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

| | |
|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Contract Purchaser: | Legal Owner(s): |
| STEVEN R. GRIFFITH (Type of Print Name) | ROBERT W. MOCKARD (Type of Print Name) |
| <i>Steven R. Griffith</i> Signature | <i>Robert W. Mockard</i> Signature |
| DOUG GRIFFITH CHRYSLER PLYMOUTH, INC. Address | MOBIL OIL CORPORATION (Type of Print Name) |
| 2812 HARFORD ROAD Address | By: <i>Robert W. Cannon</i> Signature ROBERT W. CANNON, Attorney and Authorized Representative [See attached continuation of signature page] |
| BALTIMORE, MARYLAND 21234 City and State | Address Phone No. |
| Attorney for Petitioner: | City and State |
| ROBERT W. CANNON, ESQUIRE (Type of Print Name) | Name, address and phone number of legal owner, contract purchaser or representative to be contacted |
| <i>Robert W. Cannon</i> Signature | ROBERT W. CANNON, ESQUIRE Name |
| WEINBERG AND GREEN Address | WEINBERG AND GREEN Address (301) 332-8816 Phone No. |
| 100 SOUTH CHARLES STREET Address | |
| BALTIMORE, MARYLAND 21201 City and State | |

Attorney's Telephone No.: (301) 332-8816

ZONING DESCRIPTION

As Amended 1/7/86

Description of current BL-CS-2 area to be reclassified as BM-CS-2

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.

PETITION FOR RECLASSIFICATION
11th Election District

LOCATION: Northeast Corner of Harford Road and East Avenue
(now abandoned)

PUBLIC HEARING: Wednesday, February 12, 1986 at 10:00 a.m.
in Room 218, Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Reclassify zoning status of property from a BL-CS-2 zone to a BM-CS-2 zone.

All that parcel of land in the 11th District of Baltimore County

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.

The property of
ROBERT W. MOCKARD, ET AL
as shown on the plan plan filed
with the Zoning Department.

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
BALTIMORE COUNTY

ZONING DESCRIPTION

As Amended 1/7/86

Description of current BL-CS-2 area to be reclassified as BM-CS-2

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.

IN THE MATTER OF THE
APPLICATION FOR
RECLASSIFICATION FROM
BL-CS-2 to BM-CS-2 ZONE
NE Corner of Harford Rd.
and East Ave. (now
abandoned), 11th District

BEFORE THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

ROBERT W. MOCKARD, et al.,
Petitioners

Zoning Case No. R-86-303

ENTRY OF APPEARANCE

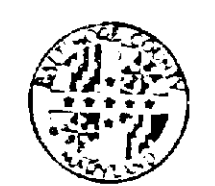
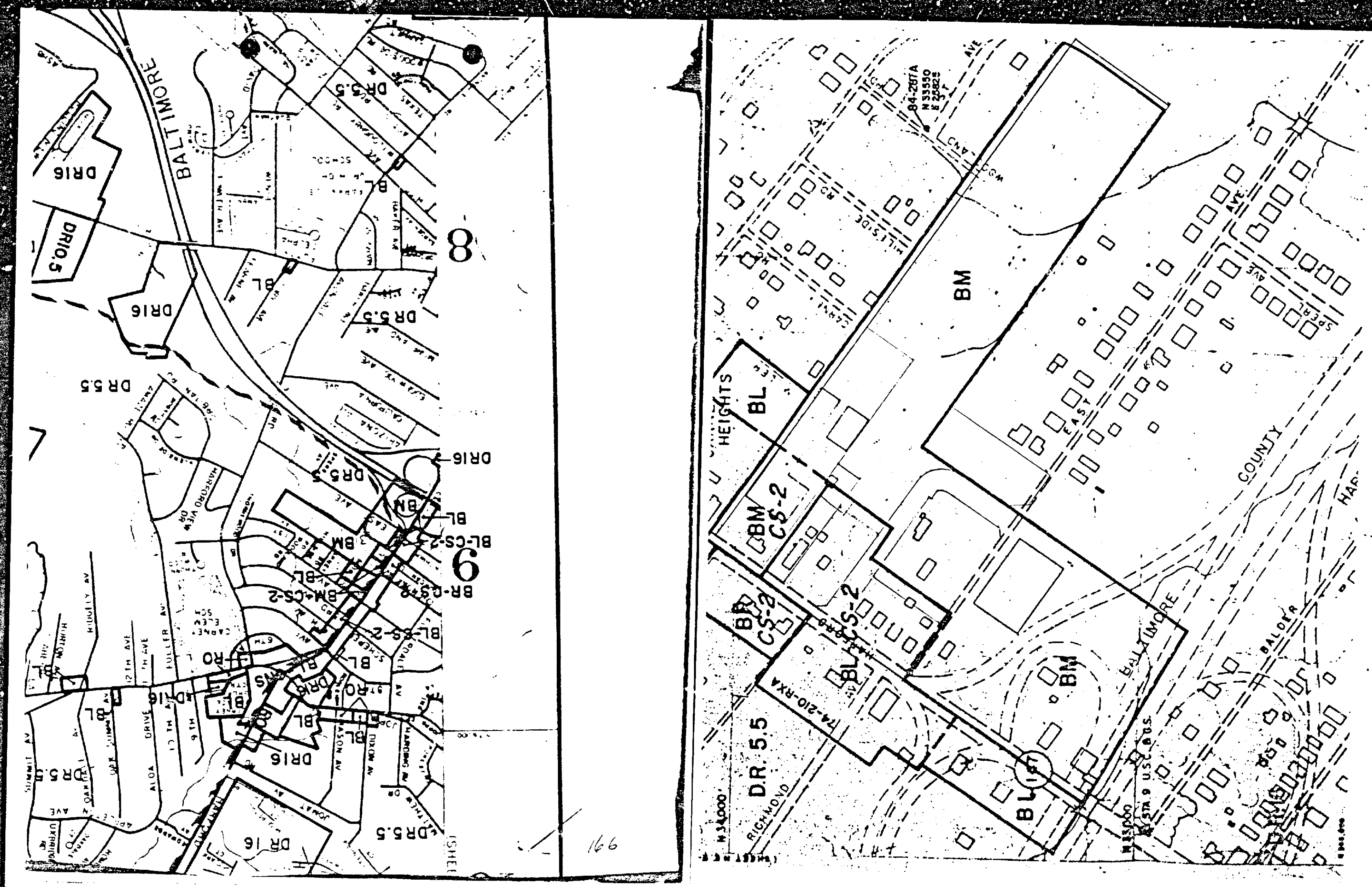
Please enter the appearance of the People's Counsel in the
above-captioned matter. Notices should be sent of any hearing dates or
other proceedings in this matter and of the passage of any preliminary
or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 13th day of January, 1986, a
copy of the foregoing Entry of Appearance was mailed to Robert W. Cannon,
Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201;
and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford
Rd., Baltimore, MD 21234, Contract Purchaser.

Peter Max Zimmerman
Peter Max Zimmerman



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3183
April 3, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Dear Mr. Cannon: Re: Case No. R-86-303
Robert W. Mockard, et al.

Enclosed herewith please find copy of Motion to
Strike and for Expedited Proceedings which was denied by the
Board this date.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Phyllis C. Friedman
Arnold Jablon
Jean Jung
James Dyer
Norman Gerber
James Hoswell

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 to BM-CS-2
11TH DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

No. R-86-303
Item #166

MOTION TO STRIKE AND FOR EXPEDITED PROCEEDINGS

Petitioners, Steven R. Griffith and Mobil Oil
Corporation, by their attorney, Robert W. Cannon, respectfully
move that the Board strike the last paragraph of the Opinion
and the entire Order issued herein on March 6, 1986, to allow
time for discussions among counsel for each party as to an
appropriate form of the Order and the subsequent determination
by the Board of an acceptable form of the Order, during which
time the Board shall retain jurisdiction over this matter.

Petitioners also move for an expedited hearing on
this motion on the ground that the 30 day period during which
the Board has revisory power and control over the Order
pursuant to Rule 10 of the Rules of Practice and Procedure of
the County Board of Appeals expires on April 5, 1986.

People's Counsel has been consulted and have advised
Petitioner's attorney that they have no objection to the entry
of the herein requested Order.

WHEREFORE, in accordance with the foregoing Motion,
and the proposed Order set forth below, Petitioners pray that
the Board issue an Order striking the last paragraph of the
Opinion and the entire Order issued herein on March 6, 1986,
pending reconsideration of the form of said Order.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Petitioners

ORDER

For the reasons set forth in the foregoing Motion,
it is this ____ day of April, 1986, by the County Board of
Appeals, ORDERED that the last paragraph of the Opinion and
the entire Order granted herein on March 6, 1986 be struck,
pending reconsideration of the form of said Order, during
which time the Board shall retain jurisdiction over this
matter.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans
William R. Evans

Lesley S. Spurrier
Lesley S. Spurrier

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12 day of April, 1986, a
copy of the foregoing Motion to Strike and For Expedited
Proceedings was served on People's Counsel, by leaving a copy
thereof with *Phyllis C. Friedman*, at Room 223, Court House,
Towson, Maryland 21204.

Robert W. Cannon
Robert W. Cannon
Attorney for Petitioners



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3183
April 4, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Dear Mr. Cannon: Re: Case No. R-86-303
Robert W. Mockard, et al.

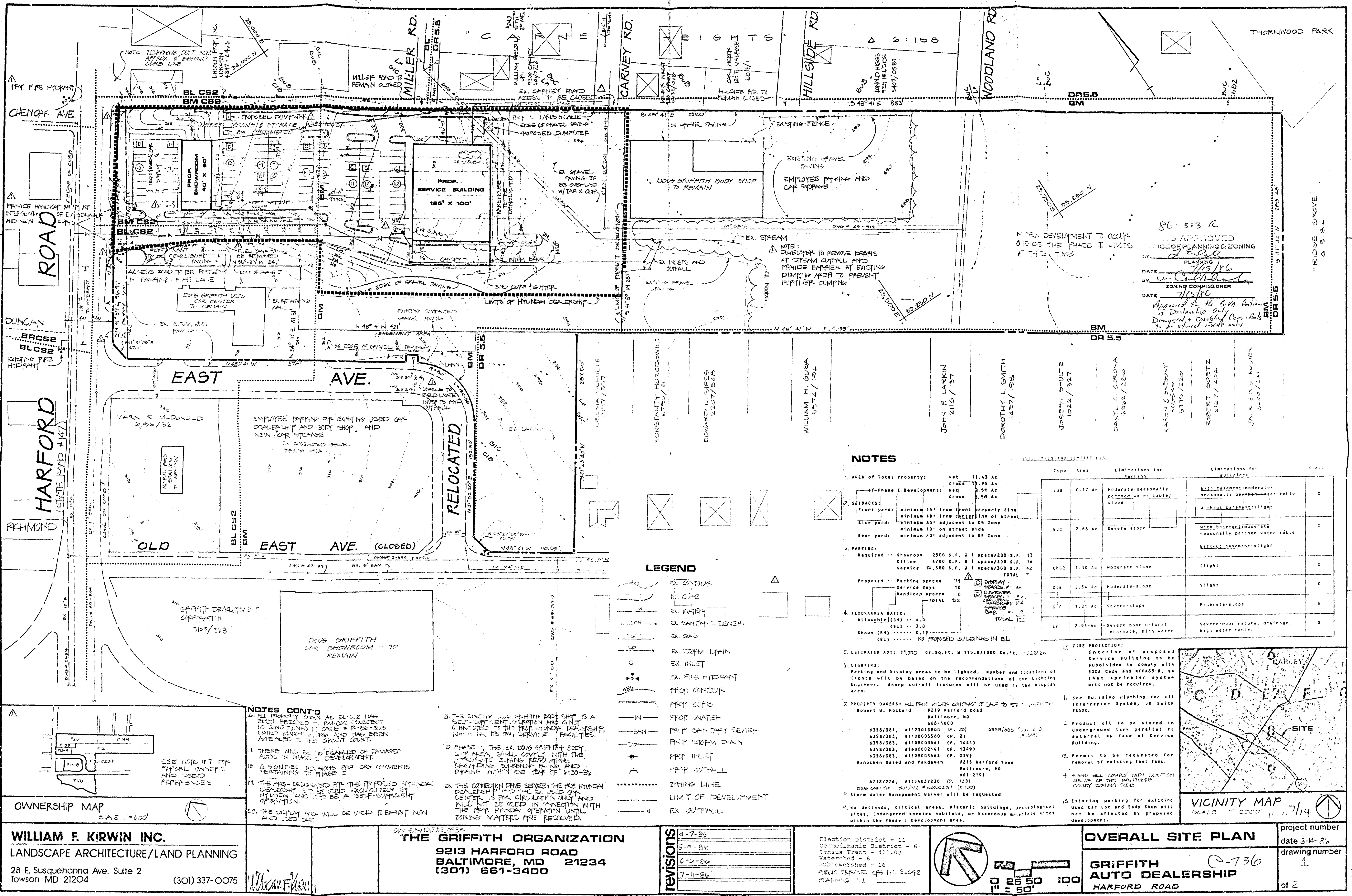
Notice is hereby given, in accordance with
the Rules of Procedure of the Court of Appeals of Maryland,
that an appeal has been taken to the Circuit Court for
Baltimore County from the decision of the County Board
of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate
of Notice.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Arnold Jablon
Jean Jung
James Dyer
Norman Gerber
James Hoswell



86-303 R
IS APPROVED
OFFICE OF PLANNING & ZONING
DATE 7/15/86
BY [Signature]
ZONING COMMISSIONER
DATE 7/15/86
Approved by the 6 m. Board
of Deeds for the City of
Baltimore, Maryland
Dated 7/15/86
By [Signature]

NOTES

- 1. AREA of Total Property: Net 11.43 Ac, Gross 11.95 Ac
- 2. SETBACKS: Front yard: minimum 15' from front property line; Side yard: minimum 35' adjacent to DR Zone; Rear yard: minimum 20' adjacent to DR Zone
- 3. PARKING: Required -- Showroom 2500 S.F. @ 1 space/200 S.F. 13; Office 4700 S.F. @ 1 space/300 S.F. 16; Service 12,500 S.F. @ 1 space/300 S.F. 42; TOTAL 71
- 4. FLOOR AREA RATIO: Allowable (BL) -- 4.0; Shown (BL) -- 3.0; (BL) -- NO PROPOSED BUILDINGS IN BL
- 5. ESTIMATED ADT: 17,000 Gr. Sq. Ft. @ 115.8/1000 Sq. Ft. -- 228/26
- 6. LIGHTING: Parking and Display areas to be lighted. Number and locations of lights will be based on the recommendations of the Lighting Engineer. Sharp cut-off fixtures will be used in the Display area.
- 7. PROPERTY OWNERS: ALL PROP. UNDER CONTRACT OF SALE TO GR. & GR. PTH. Robert W. Hockard 9219 Harford Road Baltimore, MD 668-1000
- 8. FIRE PROTECTION: Interior of proposed Service Building to be subdivided to comply with BOCA Code and NFPA 800, so that sprinkler system will not be required.
- 9. See Building Plumbing for Oil Interceptor System, JR Smith #8520.
- 10. Product oil to be stored in underground tank parallel to external NW face of Service Building.
- 11. Permit to be requested for removal of existing fuel tank.
- 12. Signs will comply with Section 40.22 of the Baltimore County Zoning Code.
- 13. Existing parking for existing Used Car Lot and Body Shop will not be affected by proposed development.

| Type | Area | Limitations for Parking | Limitations for Buildings | Class |
|------|---------|------------------------------------------------|----------------------------------------------------------------------------------|-------|
| BUB | 0.17 Ac | Moderate-seasonally perched water table; slope | With basement: moderate-seasonally perched water table; Without basement: slight | C |
| BUC | 2.66 Ac | Severe-slope | With basement: moderate-seasonally perched water table; Without basement: slight | C |
| CHB2 | 1.30 Ac | Moderate-slope | Slight | C |
| CLB | 2.54 Ac | Moderate-slope | Slight | C |
| CIC | 1.01 Ac | Severe-slope | Moderate-slope | B |
| LR | 2.95 Ac | Severe-poor natural drainage, high water | Severe-poor natural drainage, high water table. | D |

LEGEND

- EX. CONTOUR
- EX. C/P
- EX. WATER
- EX. SANITARY SEWER
- EX. GAS
- EX. STORM DRAIN
- EX. INLET
- EX. FIRE HYDRANT
- PROP. CONTOUR
- PROP. CURB
- PROP. WATER
- PROP. SANITARY SEWER
- PROP. STORM DRAIN
- PROP. INLET
- PROP. OUTFALL
- ZONING LINE
- LIMIT OF DEVELOPMENT
- EX. OUTFALL

NOTES CONT'D

- 16. ALL PROPERTY SHOWN AS BL C22 HAS BEEN RETURNED TO THE CITY OF BALTIMORE TO BE REDEVELOPED. IF R-20-303 DATED MARCH 2, 1960 AND HAS BEEN APPEALED TO THE CIRCUIT COURT.
- 17. THERE WILL BE NO DISABLED OR DAMAGED AUTO IN PHASE I DEVELOPMENT.
- 18. A SIGNIFICANT REDUCTION PER COMMENTS PERTAINING TO PHASE I.
- 19. THE AREA DESIGNATED FOR THE PROPOSED HYUNDAI DEALERSHIP IS TO BE USED EXCLUSIVELY BY HYUNDAI AND IS TO BE A SELF-SUFFICIENT OPERATION.
- 20. THE DISPLAY AREA WILL BE USED TO EXHIBIT NEW AND USED CARS.
- 21. THE EXISTING DUBS GRIFFITH BODY SHOP IS A SELF-SUFFICIENT OPERATION AND IS NOT CONNECTED TO THE PROP. HYUNDAI DEALERSHIP, WHICH HAS ITS OWN SERVICE FACILITIES.
- 22. PHASE I: THE EX. DUBS GRIFFITH BODY SHOP AREA SHALL COMPLY WITH THE EXISTING ZONING REGULATIONS REGARDING SCREENING, FENCING AND PARKING WITHIN THE YEAR OF 6-30-86.
- 23. THE CONNECTION PIPE BETWEEN THE PROP. HYUNDAI DEALERSHIP AND THE EX. USED CAR CENTER IS FOR CIRCULATION ONLY AND WILL NOT BE USED IN CONNECTION WITH THE PROP. HYUNDAI OPERATION UNTIL ZONING MATTERS ARE RESOLVED.

WILLIAM F. KIRWIN INC.
LANDSCAPE ARCHITECTURE/LAND PLANNING
28 E. Susquehanna Ave. Suite 2
Towson MD 21204
(301) 337-0075

THE GRIFFITH ORGANIZATION
9213 HARFORD ROAD
BALTIMORE, MD 21234
(301) 661-3400

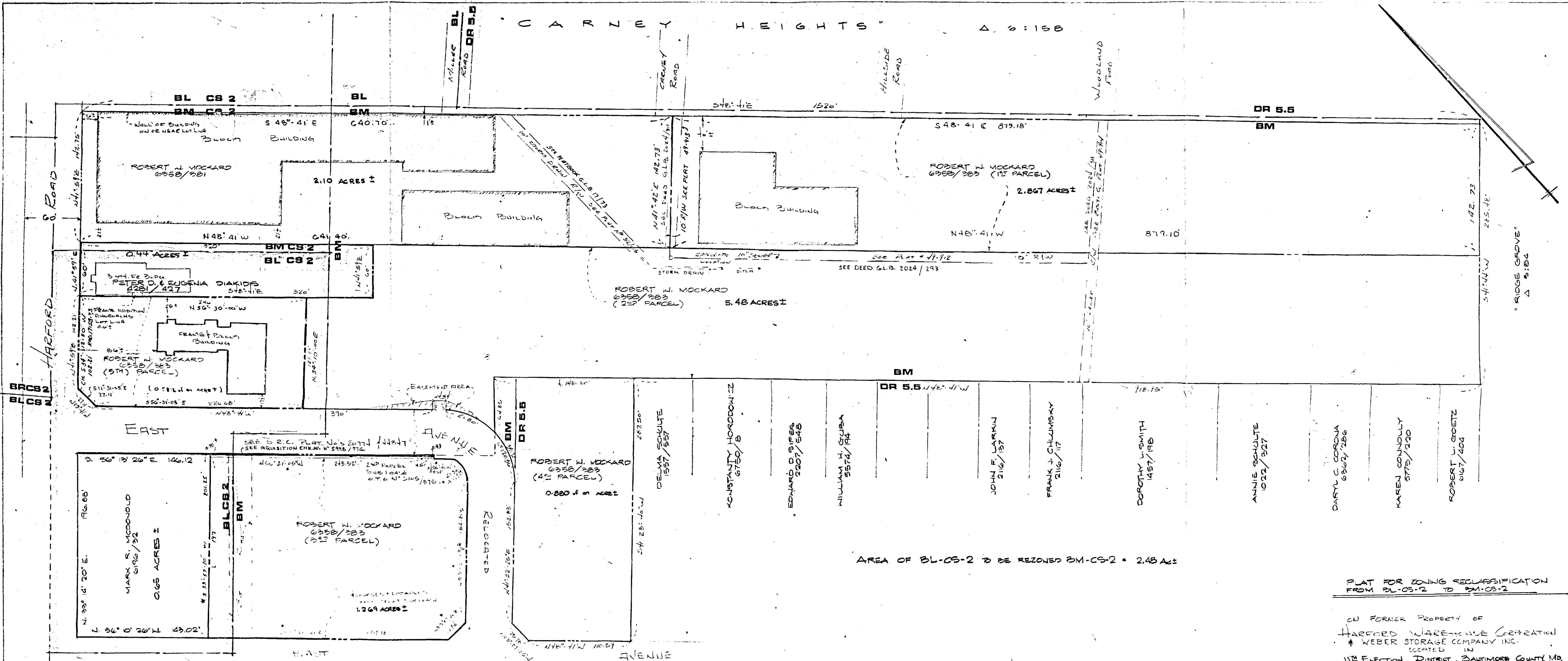
| | |
|-----------|---------|
| revisions | 4-7-86 |
| | 5-9-86 |
| | 6-3-86 |
| | 7-11-86 |

Election District - 11
Councilmanic District - 6
Census Tracts - 411.02
Watershed - 6
Subwatershed - 18
AECUS REP/ACC Q9 11.8/48
PLANNING [Signature]

OVERALL SITE PLAN
C-736
GRIFFITH AUTO DEALERSHIP
HARFORD ROAD
project number
date 3-4-86
drawing number
1
of 2

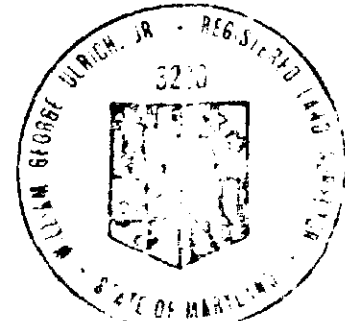
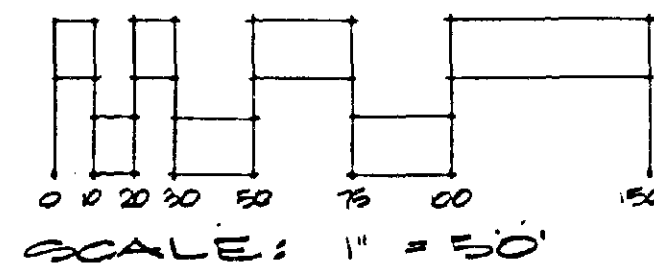
CARNEY HEIGHTS

Δ 6:158



NOTE: THE PROPERTY LINE INFORMATION SHOWN HEREON WAS PREPARED BY GERHOLD CROSS & ETZEL, INC. IN 12-81. SUPPLEMENTAL INFORMATION HAS BEEN ADDED FOR THE PURPOSE OF FILING A ZONING RECLASSIFICATION PETITION BY WILLIAM F. KIRWIN, INC., OCTOBER 30, 1985

DOUGLAS W. & BARBARA GRIFFITH
505/422



PLAT FOR ZONING RECLASSIFICATION
FROM BL-CS-2 TO BM-CS-2

ON FORMER PROPERTY OF
HARFORD WAREHOUSE CORPORATION
& WEBER STORAGE COMPANY, INC.
LOCATED IN
11th ELECTION DISTRICT, BALTIMORE COUNTY, MD.
6th COUNCILMATIC DISTRICT

AS ORIGINALLY PREPARED BY
GERHOLD CROSS & ETZEL
REG. PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVE., TOWSON, MD
REVISED 12-28-81
REVISED 12-21-81

WFK WILLIAM F. KIRWIN, INC.
Land Planning, Landscape Architecture
28 E. Susquehanna Avenue
Towson, MD 21204
Phone 301-337-0075

OFFICE COPY

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVENUE
FROM EL-CS-2 TO EM-CS-2 ZONE
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

MICHAEL D. ECK, PLAINTIFF
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, PLAINTIFF

Doc. No. 24
Folio No. 102
File No. 85-07-1262

ZONING FILE NO. R-86-303

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 3-2(d) of the Maryland Rules of Procedure, William T. Hackett, LeRoy B. Spurrier and William R. Evans, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeals to the representative of every party to the proceeding before it; namely, Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 219 E. Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Road, Baltimore, Md. 21234, Contract Purchaser, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore
County, Rm. 200, Court House
Towson, Md. 21204
494-3190

Robert W. Mockard, et al
Case No. R-86-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 219 East Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles St., Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Rd., Baltimore, Md. 21234, Contract Purchaser, on this 4th day of April, 1986.

June Holmen
County Board of Appeals of Baltimore County

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 10, 1986

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

RE: Item No. 166 - Case No. R-86-303
Petitioners - Robert W. Mockard, et al
Reclassification Petition

Dear Mr. Cannon:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:mr

Enclosures

cc: William F. Kirwin, Inc.
28 East Susquehanna Avenue
Towson, Maryland 21204

Maryland Department of Transportation

State Highway Administration

William K. Hellmann
Secretary
Hal Kassoff
Administrator

November 15, 1985

Mr. A. Jablon
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Item #166
Property Owner: Robert W. Mockard
Location: NE corner Harford Road (Route 147) and East Avenue
Existing Zoning: B.L. CS-2
proposed Zoning B.M. CS-2
Acres: 2.48
District 11th

At: James Dyer

Dear Mr. Dyer:

On review of the revised submittal of 12/28/81 and field inspection, the S.H.A. finds the proposed change in zoning from B.L. & B.M. to CS-2 generally acceptable.

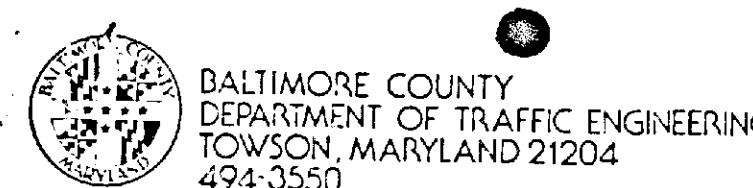
Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engr. Access Permits
by: George Wittman

CL-GW:es

cc: J. Ogle

My telephone number is 301 659-1350
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
P.O. Box 717/707 North Calvert St., Baltimore, Maryland 21203-0717



STEPHEN E. COLLINS
DIRECTOR

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

January 7, 1986

Item No. 166 -ZAC- Meeting of November 12, 1985
Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
Existing Zoning: B.L. - CS-2
Proposed Zoning: B.M. - CS-2

Acres: 2.48
District: 11th

Dear Mr. Jablon:

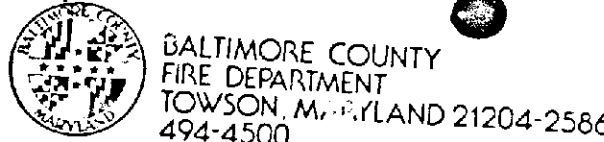
This site is 2 different parcels of land with two different uses. On the south east corner of Harford Road and East Avenue is a gas station which is using the public side walks for parking, not maintaining the setback for parking along Harford Road. Parking on the sidewalk causes a safety problem for pedestrians and not maintaining the setbacks causes sight distance problems for setbacks existing from East Avenue.

On the north east corner of East Avenue and Harford Road is the second parcel of land, which is occupied by a car dealer. The dealer is parking in the R/V not maintaining the setback and has an entrance on East Avenue that exceeds the maximum width.

The proposed change to the zoning is not expected to be a major traffic problem.

Michael S. Flanagan
Traffic Engineer Associate II

MSE/bld



PAUL H. REINCKE
CHIEF

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
166 Item No.: 166
Zoning Agenda: Meeting of November 12, 1985

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of 150 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

(X) 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: [Signature]
Planning Group
Special Inspection Division

Noted and Approved: [Signature]
Fire/Prevention Bureau

/mb



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

November 21, 1985

TED ZALESKI, JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 166 Zoning Advisory Committee Meeting are as follows:
Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
District: 11th.

APPLICABLE STANDARDS ARE CITED:

All structures shall conform to the Baltimore County Building Code as adopted by Council Bill 10-85, the Maryland Code for the Handicapped and Lord (A.D. 1974, 1980) and other applicable codes and standards.

1. A building and other miscellaneous permits shall be required before the start of any construction.

2. Residential: Two sets of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is not required on plans and technical data.

3. Commercial: Three sets of construction drawings sealed and signed by a registered in Maryland Architect or Engineer shall be required to file with a permit application. Registered seals are not acceptable.

4. All Use Groups except P-1 Single Family Detached Dwelling require a minimum of 1 hour fire rating for exterior walls closer than 6' to an interior lot line. Use Groups require a one hour wall if closer than 10' to an interior lot line. Any wall built in an interior lot line shall require a fire of party wall. See Section 310.1 Section 310.2 and Table 310.2. No openings are permitted in an exterior wall within 10' of an interior lot line.

5. The structure does not appear to comply with Table 310.2 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 310.2 and 310.3 and have your Architect/Engineer contact this department.

6. The proposed variance appears to conflict with Section 310.1 of the Baltimore County Building Code.

7. When filing for a required Change of Use/Grouping Permit, an alteration permit application shall also be filed and shall show areas of proposed construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are not acceptable. The change of the structure from the existing use to the new use shall be shown. See Section 310.1 of the Building Code.

8. The proposed project appears to be located in a Flood Plain, Flood Hazard Area. Please see the attached copy of Section 310.1 of the Building Code as adopted by Bill 10-85. Site plans shall show the current elevations above sea level for the lot and the finished floor levels including basement.

Comments: Should the change of use of any structure be proposed, a change of occupancy would be required. The building would have to be capable of complying or being made to comply to the Building Code in force at the time.

9. These abbreviated comments reflect only on the information provided by the applicant submitted to the Office of Planning and Zoning and are not intended to be construed as the final opinion of any department or agency. The applicant may obtain additional information by contacting the Office of Planning and Zoning at the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

By: [Signature]
Building Plans Section



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

February 5, 1986

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Robert W. Mockard, et al - Petitioners
Case No. R-86-303

Dear Mr. Cannon:

This is to advise you that \$100.67 is due for advertising and posting of the above property. This fee must be paid before an order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Ms. Margaret E. du Bois, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

Arnold Jablon
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 000000

DATE _____ ACCOUNT _____

AMOUNT \$ _____

RECEIVED FROM _____

FOR _____

VALIDATION OR SIGNATURE OF CASHIER

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

January 10, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Petitioners: Robert W. Mockard, et al.
Case No. R-86-303

TIME: 10:00 A.M.

DATE: Wednesday, February 12, 1986

PLACE: Room 218, Courthouse, Towson, Maryland

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

cc: People's Counsel

REPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 451

September Term, 1987

PEOPLE'S COUNSEL
FOR BALTIMORE COUNTY

v.

ROBERT W. MOCKARD, et al

Wilner
Alpert
Bell, Rosalyn B.,
JJ.

OPINION BY BELL, ROSALYN B., J.

Filed: December 7, 1987

ZONING CASE NO. R-86-303

- 14 -

Although with more specificity than expressed by the trial judge, we affirm the remand of the case for the Board to decide whether there was an error in the comprehensive zoning plan. In making that determination, the Board must at least "consider," as we have defined that word, the factors found in § 2-58.1(j)(2). Secondly, the Board must at least "consider" those factors and make specific findings as to whether the proposed reclassification is warranted.

JUDGMENT AFFIRMED.
COSTS TO BE DIVIDED EQUALLY BY
APPELLANTS/CROSS-APPELLEES AND
APPELLEES/CROSS-APPELLANTS.

RECEIVED APPEALS
COUNTY BOARD OF APPEALS
1987 DEC -9 A 11:00

(17) Oct. 29, 1986 = Petitioners Memorandum fd.

CASE NO.

(18) Feb. 10, 1987 - Appellant's (Michael D. Eck) Consent to Judgment in Favor of Robert W. Mockard, et al fd.

Feb. 11, 1987 Hon. William M. Nickerson. Hearing had. Disposition of hearing held Sub Curia. Opinion order to be filed.

(19) Mar 4, 1987 - Opinion and Order of Court that the decision of the County Board of Appeals be and the same is hereby Reversed as to the condition imposed on reclassification, and further Ordered that the case be REMANDED to the County Board of Appeals for findings consistent with this opinion. (WMN) Copies sent.

ROBERT W. MOCKARD, ET AL
Harford Rd. and East Ave.

R-76-303
Item #156
11th District

BL-CS-2 to BM-CS-2 2.48 acres

Oct. 30, 1985 Petition filed (OUT OF CYCLE)
Nov. 21, 1985 Planning Board certified to County Council that case could be considered for early action.

Dec. 2 County Council approved Planning Board's Motion certifying early action.

Robert W. Cannon, Esq. Counsel for Petitioner
Weinberg & Green
100 S. Charles St. (21201)
Stephen R. Griffith Contract Purchaser
Doug Griffith Chrysler
Plymouth, Inc.
9213 Harford Rd. (21234)

Robert W. Mockard, et al Petitioners

Phyllis C. Friedman People's Counsel
Arnold Jablon
Jean M.H. Jung
James Dyer
Norman Gerber
James Hoswell

MICHAEL D. ECK SLDG ORDER
9304 CARNEY RD. (21234) (Protestant)
Stanley H. Miller, Esq. Counsel for Protestants
Knickerbocker Bldg.
Suite 200
218 E. Lexington St.
(21204)

IN THE MATTER OF : IN THE
ROBERT W. MOCKARD, ET AL : CIRCUIT COURT
FOR RECLASSIFICATION OF :
PROPERTY LOCATED AT : FOR
HARFORD RD. AND EAST AVE. : BALTIMORE COUNTY
FROM BL-CS-2 TO BM-CS-2 :
11th DISTRICT :
MICHAEL D. ECK, PLAINTIFF : AT LAW
PEOPLE'S COUNSEL FOR BALTIMORE : Doc. No. 24
COUNTY, PLAINTIFF : Folio No. 102
ROBERT W. MOCKARD, ET AL, : File No. 86-CG-1262
PLAINTIFFS :
ZONING FILE NO. R-86-303 :
CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING :
COMMISSIONER AND THE BOARD OF APPEALS OF :
BALTIMORE COUNTY :

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, LeRoy B. Spurrier and William R. Evans, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTIRES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

No. R-86-303
December 12, 1985 Petition filed for reclassification from BL-CS-2 to BM-CS-2 on property located at Harford Rd. and East Ave. in the 11th District of Balto. County
January 17, 1986 Certificate of Posting of property - filed
January 23 Publication in newspaper - filed
February 10 Comments of Balto. County Zoning Plans Advisory Committee - filed
February 12 At 10:00 a.m. hearing held on petition by County Board of Appeals

Robert W. Mockard, et al
Case No. R-86-303

March 6, 1986 Order of the County Board of Appeals ordering that the Petition for Reclassification from BL-CS-2 to BM-CS-2 be GRANTED for the specific purpose of expanding the existing used and new car dealership.
April 3 Motion to Strike and for Expedited proceedings DENIED
April 4 Order for Appeal filed in the Circuit Ct. for Baltimore County by Phyllis C. Friedman, People's Counsel for Baltimore County.
April 4 Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County
April 4 Order for Appeal filed in the Circuit Ct. for Baltimore County by Stanley H. Miller, Esq., on behalf of Michael D. Eck, Protestant.
April 4 Petition to accompany Order for Appeal filed in the Circuit Ct. for Baltimore County
April 4 Certificate of Notice sent to interested parties.
April 7 Order for Appeal filed in the Circuit Ct. for Baltimore County by Robert W. Cannon, Esq., on behalf of Petitioners.
April 9 Certificate of Notice sent to interested parties.
April 17 Petition to accompany Order for Appeal filed in the Circuit Court for Baltimore County
May 8 Motion to Extend Time to Transmit Record to Aug. 1, 1986.
August 1 Transcript of testimony filed
People's Counsel's Exhibits 1 thru 10 - Photographs of subject property and surrounding area.
Petitioners' Exhibit No. 1 - Plat, 1/28/86, Doug Griffith property
" " 2 - Copy of 200 scale zoning map showing property outlined in red.
" " 3 - William Kirwin's qualifications as a land planner
" " 4 - Site plan dated 12/21/81, revised 12/28/81
" " 5 - Qualifications of John Wes Guckert as traffic engineer.
" " 6 - A thru I, series of nine photos showing subj property and surrounding area.

Robert W. Mockard, et al
Case No. R-86-303

August 1, 1986 Record of proceedings filed in the Circuit Court for Baltimore County.

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

Respectfully submitted,

June Holman
County Board of Appeals of Baltimore County

cc: Robt. W. Cannon, Esq.
Phyllis C. Friedman
Stanley H. Miller, Esq.

IN THE MATTER OF : IN THE
ROBERT W. MOCKARD, ET AL. : CIRCUIT COURT
FOR RECLASSIFICATION OF :
PROPERTY LOCATED AT : FOR
HARFORD ROAD AND FIRST : BALTIMORE COUNTY
AVENUE FROM BL-CS-2 TO :
BM-CS-2 : Docket No.: 24
11th DISTRICT : Folio No. 102
ZONING FILE NO. R-86-303 : File No.: 86-CG-1262
* * * * *

ANSWER TO PETITION ON APPEAL

Robert W. Mockard, Steven R. Griffith, Saied Manocheh, Mohamad Pakoaman, Mohammed Manochah, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their successors, Appellants in this case (hereinafter "Appellants"), by their attorney, Robert W. Cannon, answer the Petition on Appeal entered by Michael D. Eck in the above-entitled matter, as follows:

1. Appellants deny Paragraph 1.
2. Appellants deny Paragraph 2.
3. Appellants deny Paragraph 3.
4. Because Paragraph 4 sets forth no additional grounds under which the Appeal is taken or alleged error committed by the County Board of Appeals for Baltimore County, Appellants deny Paragraph 4.

WHEREFORE, Appellants respectfully requests:
(a) That the appeal filed by People's Counsel for Baltimore County be denied; and
(b) That the Court enter an Order affirming the Order of the County Board of Appeals for Baltimore County to the extent that such order grants reclassification of the subject property from BL-CS-2 to BM-CS-2; and that said order be modified in part by deleting the conditioning phrase "for the specific purpose of expanding the existing used and new car dealership"; and
(c) For such other and further relief as the nature of their cause may require.

Robert W. Cannon
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Answer to Petition on Appeal was heretofore served on the County Board of Appeals of Baltimore County, whose action is appealed from, by leaving a copy thereof with June Holman, at Room 200, Court House, Towson, Maryland 21204, on this 16th day of May, 1986.

I HEREBY CERTIFY that a copy of the foregoing Answer to Petition on Appeal was mailed to Stanley H. Miller, Esquire, Knickerbocker Building, Suite 200, 218 E. Lexington Street, Baltimore, Maryland 21202, on this 16th day of May, 1986.
Robert W. Cannon

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT HARFORD *
ROAD AND EAST AVENUE FROM * FOR
BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ROBERT W. MOCKARD, ET AL * AT LAW
Plaintiffs * DOCKET NO. 24, FOLIO NO. 102
ZONING FILE NO. R-86-303 * FILE NO.: 86-CG-1262

MOTION TO EXTEND TIME TO TRANSMIT RECORD

Now comes Michael D. Eck, Appellant, by his Attorney, Stanley H. Miller and respectfully represents unto YOUR HONOR:

1. An Appeal was filed on April 4, 1986 by your Movant and subsequent Appeals have been filed by the People's Counsel and by Griffith Chrysler Plymouth.

2. That the parties are presently attempting to resolve all issues in the instant case.

3. That the Transcript of Testimony can be ordered and made ready upon thirty days notice.

4. That all parties have been notified and indicate that they have no objection to the extension of time for the transmittal of the record for a period of ninety days.

WHEREFORE, it is respectfully prayed that the time within which to transmit the transcript and the record of this proceeding be extended for a period of ninety days in accordance with Rule B-7.

STANLEY H. MILLER
Knickerbocker Building, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Appellant

STEIN & MILLER
ATTORNEYS AT LAW
- LEXINGTON ST.
MD. 21202-3588
HOME 752-6203

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the MOTION TO EXTEND TIME TO TRANSMIT RECORD was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 1st day of May, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 1st day of May, 1986.

STANLEY H. MILLER

STEIN & MILLER
ATTORNEYS AT LAW
- LEXINGTON ST.
MD. 21202-3588
HOME 752-6203

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT HARFORD *
ROAD AND EAST AVENUE FROM * FOR
BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ROBERT W. MOCKARD, ET AL * AT LAW
Plaintiffs * DOCKET NO. 24, FOLIO NO. 102
ZONING FILE NO. R-86-303 * FILE NO.: 86-CG-1262

ORDER

It is this 8th day of May, 1986, by the Circuit Court Court for Baltimore County,

ORDERED that the time to transmit record of appeal be and it is hereby extended until the 1st day of August, 1986.

15/ Nickerson
JUDGE

FILED
COUNTY CLERK
R-86-303
MAY 12 1986

STEIN & MILLER
ATTORNEYS AT LAW
- LEXINGTON ST.
MD. 21202-3588
HOME 752-6203

IN THE MATTER OF * IN THE CIRCUIT COURT
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * FOR BALTIMORE COUNTY
PROPERTY LOCATED AT *
HARFORD RD. & EAST AVE. * AT LAW
FROM BL-CS-2 TO BM-CS-2 * Docket No. 24
11th District *
ROBERT W. MOCKARD, ET AL, * Folio No. 102
PLAINTIFFS * File No. 86-CG-1262
ZONING FILE NO. R-86-303

ANSWER TO PETITION ON APPEAL

People's Counsel for Baltimore County, Protestant below and Appellant herein, answers the Petition on Appeal in the above-entitled matter, as follows:

1. Appellant denies Paragraph 1.
2. Appellant denies Paragraph 2.
3. Appellant admits Paragraph 3.
4. Appellant denies Paragraph 4 insofar as it is intended to support a request that the zoning reclassification be granted unconditionally.

WHEREFORE, People's Counsel respectfully requests:

- a. That the appeal filed by Robert W. Mockard, et al be denied; and
- b. That the Court enter an Order denying the zoning reclassification; and
- c. For such other and further relief as the nature of the case requires.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

- 2 -

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2166

I HEREBY CERTIFY that on this 2nd day of April, 1986, a copy of the foregoing Answer to Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, 100 S. Charles St., Baltimore, MD 21201; and Stanley H. Miller, Esquire, Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, MD 21202.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT *
HARFORD ROAD AND EAST AVENUE * FOR
FROM BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ZONING FILE NO. R-86-303 * DOCKET NO. 24
Folio No. 102
File No. 86-CG-1262

PETITION PERFECTING APPEAL FROM ACTION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Robert W. Mockard, Steven R. Griffith, Saied Manochah, Mohamad Pakdaman, Mohammad Manochah, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their successors, Appellants in this case, (hereinafter "Appellants"), by their attorney, Robert W. Cannon, respectfully represents unto Your Honor:

1. That Appellants were the petitioners for the reclassification granted subject to condition in this case by the County Board of Appeals for Baltimore County (the "Board") and have a direct and immediate interest in the subject matter of the appeal herein, which interest has been adversely affected by the action of the Board, to their special harm and damage; and that Appellants are directly aggrieved by the Opinion and Order of the Board, from which they entered the subject appeal, as hereinafter set forth;

2. That pursuant to the provisions of Subtitle B of Chapter 1100 of the Maryland Rules of Procedure, Appellants

WEINBERG AND GREEN
BALTIMORE, MD. 21201

heretofore entered with this Court an appeal from the Order passed by the Board at its March 6, 1986 meeting; and that this Petition, setting forth the action appealed from, the error committed by the Board in taking such action, and the relief sought by Appellants, is designed to perfect such appeal in accordance with the requirements of said Maryland Rules of Procedure;

3. That by its Opinion and Order passed on March 6, 1986, a copy of which is attached to this Petition and incorporated herein by reference, the Board granted, subject to condition, Appellants' request for reclassification of the subject property from BL-CS-2 to BM-CS-2;

4. That the aforesaid March 6, 1986 Opinion and Order of the Board is illegal, invalid and erroneous to the extent that said Opinion and Order conditioned reclassification of the subject property from BL-CS-2 to BM-CS-2 "for the specific purpose of expanding the existing used and new car dealership." Opinion and Order at 4.

WHEREFORE, the Appellants respectfully pray:

(a) That the Order of the County Board of Appeals for Baltimore County be affirmed to the extent that said Order grants reclassification of the subject property from BL-CS-2 to BM-CS-2; and, that said Order be modified in part by deleting the conditioning phrase "for the specific purpose of expanding the existing used and new car dealership"; and,

- 2 -

(b) For such other and further relief as the nature of their cause may require.

Robert W. Cannon
Robert W. Cannon
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition was heretofore served on the County Board of Appeals of Baltimore County, whose action is appealed from, by leaving a copy thereof with June Holman, at Room 200, Court House, Towson, Maryland 21204, this 2nd day of April, 1986.

Robert W. Cannon

WEINBERG AND GREEN
BALTIMORE, MD. 21201

- 3 -

24/102/8609/46

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY, ET AL.

Appellants

vs.

ROBERT W. MOCKARD, ET AL.

Appellees

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

CASE NO. 86CG1262

(ZONING MATTER #B-86-303)

OPINION AND ORDER

This case came before the Court on February 11, 1987 on appeal from a decision rendered by the Baltimore County Board of Appeals. Petitioners below, Robert W. Mockard, et al., requested a zoning reclassification of property located at Harford Road and East Avenue from BL-CS-2 to BM-CS-2. The Board granted the reclassification for the specific purpose of expanding the existing used and new car dealership (Griffith Chrysler-Plymouth). Orders for Appeal were filed by three parties: Petitioners; People's Counsel for Baltimore County; and Michael D. Eck, Protestant. The day prior to the hearing before this Court, Michael D. Eck filed a Consent to Judgment in Favor of Robert W. Mockard, et al., so that argument on February 11 was presented only by Petitioners and People's Counsel.

The issues raised on appeal are as follows:

(1) Was the evidence presented to the Board relative to mistake strong enough to render the issue fairly

debatable? [Balto. Co. Code Sec. 2-58.1(j)(1)].

(2) Did the Board make findings as to the factors warranting the reclassification pursuant to Sec. 2-58.1(j)(2) of the Balto. Co. Code?

(3) Was the condition placed on the reclassification erroneous?

The Board decided to grant Petitioner's request for a reclassification in zoning from business local (BL-CS-2) to business major (BM-CS-2). The Board added the condition "for the specific purpose of expanding the existing used and new car dealership". The Board's decision is based upon the "change or mistake" rule set forth in the Baltimore County Code:

Before any property is reclassified pursuant to this section, the board of appeals must find:

(1) That there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error.

Balto. Co. Code 1978, Sec. 2-58.1(j)(1) (1985 Cum. Supp.).

I. Was the evidence presented to the Board relative to mistake strong enough to render the issue fairly debatable?

Petitioners relied on the "mistake" portion of the "change or mistake" rule and argued to the Board that the BL (business local) zoning given to the subject property during the 1984 Comprehensive Zoning Process was an error in light of the

fact that it is surrounded by BM (business major) zones. They offered testimony from three expert witnesses, two of whom testified that in their opinion, a mistake had been made in the 1984 zoning. In addition, a letter from Norman E. Gerber, Director of Planning and Zoning, was accepted into evidence wherein the proposed reclassification was recommended, although no mistake in prior zoning was acknowledged. Photos and a zoning map were also presented to the Board.

This Court is aware that in a zoning appeal the Court may not substitute its judgment for that of the Board. The scope of review is limited to a determination of whether the issue presented to the Board, i.e. mistake, was fairly debatable. If so, the decision must be affirmed by the Circuit Court. Floyd v. County Council of P.G. Co., 55 Md. App. 246, 461 A.2d 76 (1983). However, in order to render the issue of "mistake" fairly debatable, substantial evidence of such mistake must have been presented to the Board. Coppolino v. County Board of Appeals of Baltimore County, 23 Md. App. 358, 328 A.2d 55 (1974). When a Board's finding cannot be said to be "fairly debatable", it is arbitrary, capricious and a denial of due process of law. Turner v. Hammond, 270 Md. 41, 310 A.2d 543 (1973).

This Court will not disturb the Board's decision as to the issue of mistake. The evidence, including photographs, zoning map and expert testimony, presented to the Board was sufficient to create a fairly debatable issue of mistake.

II. Did the Board make findings as to the factors warranting the reclassification pursuant to Sec. 2-58.1(j)(2)?

People's Counsel argues that the written opinion of the Board does not reflect the requisite consideration of factors necessary for a reclassification, as set forth in Sec. 2-58.1(j)(2). This Court agrees. A careful reading of the Code section mandates that a reclassification may be made only upon consideration of factors . . . including, but not limited to, all of the following: Population trends; availability and adequacy of present and proposed transportation facilities, water supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities, and other public facilities, and compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water supply facilities, and the capital program.

FILED MAR - 4 1987

In reviewing an agency action, the Court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency. United Steel Workers v. Bethlehem Steel, 298 Md. 665, 472 A.2d 62 (1984). In the instant case, the Board's decision is conclusory in nature and specifically omits findings relative to the factors set forth above. The circuit court may not supply factual findings which were not made by the Board. Ocean Hideaway Condominium, et al. v. Boardwalk Plaza Venture, 68 Md. App. 650 (1986). This Court will remand for findings consistent with Sec. 2-58.1(j)(2).

III. Was the condition placed on the reclassification erroneous?

Both Petitioner and People's Counsel urge that conditional zoning is invalid when the rezoning is accomplished by the open-plat method employed by Petitioners. Although testimony was taken relative to Petitioner's proposed use, their petition for reclassification was not a "specific-site plan" as specified in the Baltimore County Code Sec. 2-58.1(1). In Board of County Commissioners of Washington County v. H. Manny Holtz, Inc., 65 Md. App. 574, 501 A.2d 489 (1985), the Court of Appeals stated:

While we do acknowledge that certain text writers and various states have been attracted to conditional zoning as a valuable planning tool, we are not inclined to construe the statute [Article 66B] to provide for conditional use zoning in Maryland.

Although Sec. 2-58.1(1) provides an exception to the rule enunciated in Holtz, Petitioners did not utilize that provision. It appears that the Board was attempting to mitigate any negative impact which the reclassification may have on the surrounding neighborhood by imposing the condition on the reclassification. However, conditional zoning is not a valid means by which to achieve that result. A more careful determination of the delineated factors should enable the Board to determine whether the prospective classification is, in fact, warranted.

Accordingly, it is this 3rd day of March, 1987, by the Circuit Court for Baltimore County,

ORDERED that the decision of the County Board of Appeals be and the same is hereby REVERSED as to the condition imposed on the reclassification, and further

ORDERED that the case be REMANDED to the County Board of Appeals for findings consistent with this opinion.

William M. Nickerson
WILLIAM M. NICKERSON, JUDGE

COPIES SENT TO:

Robert W. Cannon, Esquire
100 South Charles Street
Baltimore, Maryland 21201

Phyllis C. Friedman, Esquire
Room 223, Court House
Towson, Maryland 21204

Stanley H. Miller, Esquire
Suite 200
218 East Lexington Street
Baltimore, Maryland 21202

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL GENERAL

DOCKET 24 PAGE 102 CASE NO. 86CG1262 CATEGORY APPEAL

ATTORNEYS

IN THE MATTER OF
ROBERT W. MOCKARD, STEVEN R. GRIFFITH, SAIED MAMOCH, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL CS-2 TO BM-CS-2
11th DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166
MICHAEL D. ECK, Protestant
COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Stanley H. Miller
Knickerbocker Bldg-Ste 200
218 E. Lexington St. (02)
752-6203
Robert W. Cannon
100 South Charles Street
(01) 532-8816

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Peter Max Zimmerman
Rm. 223, Courthouse
(04) 494-2188

3/5/87 P.F. 86-303
(1) April 4, 1986 - Appellant's Order for Appeal from the Decision of the County Board of Appeals of Baltimore County and Petition fd.
(2) April 4, 1986 - People's Counsel for Baltimore County Appeal from the Decision of the County Board of Appeal and Petition fd.
(3) Apr. 4, 1986 - Certificate of Notice fd.
(4) April 7, 1986 - Appellant's Robert W. Mockard, et al Order for Appeal from the Action of the Board of Appeals of Baltimore County fd.
(5) April 7, 1986 - Certificate of Notice fd.
(6) April 17, 1986 - App of Robert W. Cannon as attorney for the appellants same day Petition perfecting appeal from action of the county board of appeals of Baltimore county fd.
(7) Apr. 23, 1986 Protestant's Answer to Petition on Appeal fd.
(8) May 2, 1986 - Appellant's (Michael D. Eck) Motion to Extend Time to Transmit Record fd.
(9) May 16, 1986 - Order of Court that the Time to transmit record of appeal be and it is hereby extended until the 1st day of August, 1986. (REC)
(10) May. 16, 1986 - Correspondence fd.
(11) May. 16, 1986 - Appellant's Mockard et al Answer to Petition for Appeal fd./filed by Michael D. Eck
(12) May. 16, 1986 - Appellants (Mockard) Answer to Petition for Appeal filed by People's Counsel for Balto. Co. fd.
(13) Aug. 1, 1986 - Transcript of Record fd.
(14) Aug. 1, 1986 - Notice of Filing of Record fd.
(15) Aug. 25, 1986 - People's Counsel's Memorandum fd.
(16) Aug. 29, 1986 - Appellants' Motion to Extend Time to File Memoranda and Order of Court that the time to file memoranda pursuant to MD Rule of Procedure B12 be and it is hereby extended until the 29th day of October, 1986. (MDP, REC)
(over)

DOCKET 24 PAGE 102 CASE NO. 86CG1262

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-86-303
Item #165

OPINION

The above captioned matter comes before this Board on a
Petition for Reclassification out of cycle.

Testimony and evidence was received by this Board on Wednes-
day, February 12, 1986.

Petitioner's Exhibit 2, pictorially describes the existing
zoning on the subject site as well as the property Petitioner now seeks to
rezone.

Witnesses for the Petitioner testified, over objection by the
People's Counsel, that the intended use of the subject site was for the expan-
sion of the new and used car dealership of Griffith Chrysler-Plymouth. The
basis of People's Counsel's objection was the failure of the Petitioner to
submit a specific site plan.

William F. Kirwin, an expert land planner and architect,
testified that he believed the County Council committed error in the 1984
zoning maps. He also stated that the requested reclassification would be
consistent with the surrounding classifications, would comply with the 502.1
requirements of the Baltimore County Zoning Regulations and would provide a
reasonable use for the subject property.

John W. Guckert, a Traffic Engineer, testified that in his
opinion the reclassification of the subject site would not adversely affect
traffic flow or result in increased congestion.

Robert W. Mockard, et al
Case No. R-86-303

Mr. Guckert's testimony was questioned by the Protestants, however, it is
apparent that the Protestants' questions concerned Mr. Guckert's description
of East Avenue and Harford Road as a level A intersection rather than the
resultant change of traffic flow and/or congestion resulting from a reclassifi-
cation of the subject property.

Frederick P. Klaus, a real estate consultant, testified that
in his opinion the County Council had committed error, that he was certain a
BM classification rather than BL would have been placed on the subject property
during the 1984 Comprehensive Zoning Process if it had been an issue and further
that the reclassification of the subject property would comply with the 502.1
requirements of the Baltimore County Zoning Regulations.

James Hoswell, land planner for Baltimore County, testified
that the present zoning of the subject property provides for a reasonable use
of same. Through Mr. Hoswell, a letter dated January 27, 1986, directed to
the Board of Appeals from Norman E. Gerten, Director of Planning and Zoning,
was introduced as Petitioner's Exhibit 7. Mr. Hoswell stated that said letter
was written with the knowledge that the requested reclassification was on an
open site plan. Nevertheless, said letter recommends the requested
reclassification.

It is also interesting to note that this Petition for
Reclassification was exempted by the County Council from the normal cyclical
procedures. This Board is persuaded that such unusual action by the County
Council demonstrates the possibility that the County Council may believe error
was committed during the 1984 Comprehensive Zoning Process.

Three witnesses were produced by the Protestants.

Robert W. Mockard, et al
Case No. R-86-303

The first witness, Mr. Maurice Barsotti, stated his primary
concern was traffic congestion and the attendant effect the reclassification
of the subject property will have on East Avenue. Mr. Barsotti also mentioned
the possibility of an increase in crime in the area if the reclassification is
granted.

Mrs. Mary Eck and Robert Eck reiterated Mr. Barsotti's con-
cern about increased traffic. They also questioned the specific uses intended
by the Petitioners should the reclassification request be granted. Given the
extensive number and types of uses permitted in a BM zone, Mr. and Mrs. Eck
were, justifiably, we believe, concerned with the proliferation of traffic and
commercialization and industry in the area. Both Mr. and Mrs. Eck acknow-
ledged, however, that they had no particular objection to the expansion of the
car dealership.

After having considered all of the evidence, this Board is
persuaded that the concerns expressed by Mr. Barsotti and Mr. and Mrs. Eck
are legitimate. Life and the quality of that life is precious and the
reclassification of the subject site shall impact this neighborhood. However,
we are also persuaded that the County Council did commit error in not classi-
fying the subject site BM during the 1984 zoning process. The subject
properties are surrounded by BM zones. Only across Harford Road, on the
other side of the street, are these other BL and BM zones. No CR zones are
adjacent or contiguous to the subject property.

This Board is also cognizant of the fact that the Court of
Appeals has consistently stated that a more liberal standard is employed when
considering a reclassification from one commercial zone to another. At the
same time, however, we cannot be oblivious to the problems anticipated by the
surrounding neighborhood.

Robert W. Mockard, et al
Case No. R-86-303

The Petitioners' property and that upon which they are
contract purchasers is peculiarly laid out. Although the particular property
sought to be reclassified is not contiguous to a CR zone, much of the balance
of Petitioners' property is so situated. Consequently, a specific site plan,
obviously, would be preferred. Unfortunately none exists. Nevertheless, the
Board cannot ignore what we believe to be obvious error. We can, however,
endeavor to correct that error while protecting the quality of life of the
surrounding neighborhood.

This Board shall, therefore, grant the requested reclassifica-
tion for the specific purpose of expanding the existing used and new car
dealership.

O P I N I O N

For the reasons set forth in the foregoing Opinion, it is
this 12th day of March, 1986, by the County Board of Appeals,
ORDERED that the Petition for Reclassification from BL-CS-2 to BM-CS-2 be
and the same is GRANTED for the specific purpose of expanding the existing
used and new car dealership.

Any appeal from this decision must be in accordance with
Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

William F. Kirwin

John W. Guckert

Robert W. Mockard, et al

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

ROBERT W. MCKARD, ET AL,
PLAINTIFFS

Doc. No. 24

ZONING FILE NO. R-86-303

Folio No. 102

File No. 84-1262

CERTIFICATE OF NOTICE

Mr. Clerks:

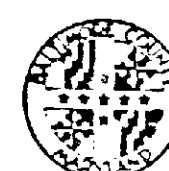
Pursuant to the provisions of Rule B-2(d) of the Maryland
Rules of Procedure, William T. Hackett, LeRoy B. Spurrier and William B. Evans,
constituting the County Board of Appeals of Baltimore County, have given notice
by mail of the filing of the appeal to the representative of every party to the
proceeding before it; namely, Robert W. Cannon, Esq., Weinberg & Green,
100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners-Plaintiffs;
Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Protestant; Stanley H.
Miller, Esq., Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore,
Md. 21202, Counsel for Protestant; and Phyllis C. Friedman, Court House,
Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which
Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
410-3153

Robert W. Mockard, et al
Case No. R-86-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of
Notice has been mailed to Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles
St., Baltimore, Md. 21201, Counsel for Petitioners-Plaintiffs; Michael D. Eck,
9304 Carney Rd., Baltimore, Md. 21234, Protestant; Stanley H. Miller, Esq.,
Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, Md. 21202,
Counsel for Protestant; and Phyllis C. Friedman, Court House, Towson, Md. 21204,
People's Counsel for Baltimore County, on this 12th day of April, 1986.

June Holmen
County Board of Appeals of Baltimore
County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

April 9, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles Street
Baltimore, Md. 21201

Dear Mr. Cannon:

Re: Case No. R-86-303
Robert W. Mockard, et al

In accordance with Rule B-7 (a) of the Rules of
Procedure of the Court of Appeals of Maryland, the County
Board of Appeals is required to submit the record of pro-
ceedings of the appeal which you have taken to the Circuit
Court for Baltimore County in the above matter within thirty
days.

The cost of the transcript of the record must be paid
by you. Certified copies of any other documents necessary
for the completion of the record must also be at your
expense.

The cost of the transcript, plus any other documents,
must be paid in time to transmit the same to the Circuit
Court not later than thirty days from the date of any
petition you might file in court, in accordance with Rule
B-7 (a).

Enclosed is a copy of the Certificate of Notice; also
invoice covering the cost of certified copies of necessary
documents.

Very truly yours,

June Holmen, Secretary

Encls.



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

April 9, 1986

Stanley H. Miller, Esq.
Suite 200, Knickerbocker Bldg.
218 E. Lexington Street
Baltimore, Md. 21202

Dear Mr. Miller:

Re: Case No. R-86-303
Robert W. Mockard, et al

Notice is hereby given, in accordance with
the Rules of Procedure of the Court of Appeals of Maryland,
that an appeal has been taken to the Circuit Court for
Baltimore County from the decision of the County Board
of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate
of Notice.

Very truly yours,

June Holmen, Secretary

Encl.

cc: Michael D. Eck
Phyllis C. Friedman
Arnold Jackson
Jean Jurek
James Dyer
Norman Gerten
James Hoswell

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11TH DISTRICT

BEFORE THE
BOARD OF APPEALS
OF
BALTIMORE COUNTY

ORDER FOR APPEAL OF ROBERT W. MOCKARD, ET AL.
FROM ACTION OF THE
BOARD OF APPEALS OF BALTIMORE COUNTY

MR. CLERK:

Please enter an appeal on behalf of Robert W. Mockard, Steven R. Griffith, Saie' Manochah, Mohamad Pakdaman, Mohammad Manochah, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their successors, Applicants, from the Order of the Board of Appeals of Baltimore County passed in the above entitled case on March 6, 1986, to the extent that said Order conditioned reclassification of the subject property from BL-CS-2 to BM-CS-2 for the specific purpose of expanding the existing used and new car dealership.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816

Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was heretofore served on the Board of Appeals of Baltimore County, whose action is appealed from, by leaving a copy thereof with *Elizabeth B. Brooks*, at Room 200, Court House, Towson, Maryland 21204, this 7th day of April, 1986.

Elizabeth B. Brooks
Elizabeth B. Brooks

COUNTY BOARD OF APPEALS
ROOM 200 - 1 P 3 11

- 2 -

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVENUE
FROM BL-CS-2 TO BM-CS-2 11TH DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Doc. No. 24
Folio No. 102
File No. B6-CG-1242

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, LeFoy B. Spurrier and William R. Evans, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeals to the representative of every party to the proceeding before it; namely, Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 218 E. Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Road, Baltimore, Md. 21234, Contract Purchaser, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holman
June Holman
County Board of Appeals of Baltimore County, Room 200, Court House Towson, Md. 21204
444-2160

Robert W. Mockard, et al
Case No. B-66-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 218 East Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles St., Baltimore, Md., 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Rd., Baltimore, Md. 21234, Contract Purchaser, on this 4th day of April, 1986.

June Holman
June Holman
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

Stanley H. Miller, Esq.
Knickerbocker Bldg., Suite 200
218 E. Lexington St.
Baltimore, Md. 21202

Re: Case No. B-66-303
Robert W. Mockard, et al

Dear Mr. Miller:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holman
June Holman, Secretary

Encls.
cc: Michael D. Eck



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

People's Counsel for Baltimore County
Court House
Towson, Md. 21204

Gentlemen:

Re: Case No. B-66-303
Robert W. Mockard, et al

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holman
June Holman, Secretary

Encls.



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 454-3150

April 4, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Dear Mr. Cannon:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holman
June Holman, Secretary

Encl.
cc: Steven R. Griffith
Arnold Jablon
Joan Jung
James Dyer
Norman Garter
James Maxwell

COUNTY BOARD OF APPEALS

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11TH DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166

CIRCUIT COURT
FOR
BALTIMORE COUNTY
DOCKET NO.:

NOTICE OF APPEAL

Please note an Appeal from the decision of the County Board of Appeals of Baltimore County in the above captioned matter under date of March 6, 1986 to the Circuit Court for Baltimore County and forward all papers to the Court for Hearing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the ORDER FOR APPEAL was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 4th day of April, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 4th day of April, 1986.

STANLEY H. MILLER
Knickerbocker Building, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Michael D. Eck,
Protestant

JOLESTEIN & MILLER
ATTORNEYS AT LAW
218 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-6203

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT
ZONING MATTER R-86-303
ITEM NO. 166

PETITION FOR APPEAL

Michael D. Eck, Protestant before the County Board of Appeals and Appellant herein, having heretofore filed a Notice of Appeal from the opinion and Order of the County Board of Appeals dated March 6, 1986 in compliance with Rule B2e files this Petition setting forth the action appealed from and the grounds under which the Appeal is taken.

1. The County Board of Appeals decision and Order granting the Petition for reclassification from BL-CS-2 to BM-CS-2 was based upon no legally sufficient evidence upon which to base its conclusions.

2. That the decision of the County Board of Appeals was contrary to the evidence and that the County Board of Appeals was erroneous in its application of the law and the facts.

3. That the decision of the County Board of Appeals was illegal, arbitrary and capricious.

4. And for such other and further reasons as will be given at the hearing on this matter.

STANLEY H. MILLER
KNICKERBOCKER BUILDING, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Michael D. Eck,
Protestant

OLDSTEIN & MILLER
ATTORNEYS AT LAW
18 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-8203

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the PETITION FOR APPEAL was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 4th day of April, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 4th day of April, 1986.

STANLEY H. MILLER

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 1986

OLDSTEIN & MILLER
ATTORNEYS AT LAW
18 E. LEXINGTON ST.
BALTO., MD. 21202-3588
TELEPHONE 752-8203

IN THE MATTER OF THE PETITION :
FOR RECLASSIFICATION FROM :
B.L.-C.S.-2 TO B.M.-C.S.-2 ZONE :
NE Corner Harford Rd. & East Ave., :
11th District :
AT LAW :
ROBERT W. MOCKARD, Petitioner :
Docket No. 24 :
Zoning File No. R-86-303 :
Folio No. 102 :
File No. 66CG1262 :

NOTICE OF APPEAL

Please note an appeal from the decision of the County Board of Appeals of Baltimore County in the above-captioned matter, under date of March 6, 1986, to the Circuit Court for Baltimore County, and forward all papers in connection therewith to the Court for hearing.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2168

I HEREBY CERTIFY that on this 4th day of April, 1986, a copy of the foregoing Notice of Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201.

Phyllis Cole Friedman
Phyllis Cole Friedman

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 1986

IN THE MATTER OF THE PETITION :
FOR RECLASSIFICATION FROM :
B.L.-C.S.-2 TO B.M.-C.S.-2 ZONE :
NE Corner Harford Rd. & East Ave., :
11th District :
AT LAW :
ROBERT W. MOCKARD, Petitioner :
Docket No. 24 :
Zoning File No. R-86-303 :
Folio No. 102 :
File No. 66CG1262 :

PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellant herein, having heretofore filed a Notice of Appeal from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of March 6, 1986, in compliance with Maryland Rule B-2(e), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. That it was prejudicial error for the Board of Appeals to admit evidence concerning the proposed use of the subject site if the rezoning was obtained.

2. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion that the requested reclassification was warranted, and therefore their Order passed herein is illegal, arbitrary, and capricious.

WHEREFORE, Appellant prays that the Order of the County Board of Appeals under date of March 6, 1986 be reversed, and that the zoning classification of the subject property remain at B.L.-C.S.-2.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

- 2 -

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2168

I HEREBY CERTIFY that on this 4th day of April, 1986, a copy of the foregoing Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles ST., Baltimore, MD 21201.

Phyllis Cole Friedman
Phyllis Cole Friedman



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
April 3, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Re: Case No. R-86-303
Robert W. Mockard, et al

Dear Mr. Cannon:

Enclosed herewith please find copy of Motion to Strike and for Expedited Proceedings which was denied by the Board this date.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Phyllis C. Friedman
Arnold Jablon
Jean Jung
James Dyer
Norman Gember
James Roswell

RECEIVED
COUNTY BOARD OF APPEALS
APR 4 1986

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-86-303
Item #166

MOTION TO STRIKE AND FOR EXPEDITED PROCEEDINGS

Petitioners, Steven R. Griffith and Mobil Oil Corporation, by their attorney, Robert W. Cannon, respectfully move that the Board strike the last paragraph of the Opinion and the entire Order issued herein on March 6, 1986, to allow time for discussions among counsel for each party as to an appropriate form of the Order and the subsequent determination by the Board of an acceptable form of the Order, during which time the Board shall retain jurisdiction over this matter.

Petitioners also move for an expedited hearing on this motion on the ground that the 30 day period during which the Board has revisory power and control over the Order pursuant to Rule 10 of the Rules of Practice and Procedure of the County Board of Appeals expires on April 5, 1986.

People's Counsel has been consulted and have advised Petitioner's attorney that they have no objection to the entry of the herein requested Order.

WHEREFORE, in accordance with the foregoing Motion, and the proposed Order set forth below, Petitioners pray that the Board issue an Order striking the last paragraph of the Opinion and the entire Order issued herein on March 6, 1986, pending reconsideration of the form of said Order.

Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8916

Attorney for Petitioners

ORDER

For the reasons set forth in the foregoing Motion, it is this ____ day of April, 1986, by the County Board of Appeals, ORDERED that the last paragraph of the Opinion and the entire Order granted herein on March 6, 1986 be struck, pending reconsideration of the form of said Order, during which time the Board shall retain jurisdiction over this matter.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans
William R. Evans

Lesley B. Spurrier
Lesley B. Spurrier

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12 day of April, 1986, a copy of the foregoing Motion to Strike and For Expedited Proceedings was served on People's Counsel, by leaving a copy thereof with Shirley M. Hess, at Room 223, Court House, Towson, Maryland 21204.

Robert W. Cannon
Robert W. Cannon
Attorney for Petitioners

RECEIVED
COUNTY BOARD OF APPEALS
11 APR - 1 P 3-25

IN THE MATTER OF
ROBERT W. MCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM EL-GS-2 to EM-GS-2
11th DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-86-303
Item #166

OPINION

The above captioned matter comes before this Board on a Petition for Reclassification out of cycle.

Testimony and evidence was received by this Board on Wednesday, February 12, 1986.

Petitioner's Exhibit 2, pictorially describes the existing zoning on the subject site as well as the property Petitioner now seeks to rezone.

Witnesses for the Petitioner testified, over objection by the People's Counsel, that the intended use of the subject site was for the expansion of the new and used car dealership of Griffith Chrysler-Plymouth. The basis of People's Counsel's objection was the failure of the Petitioner to submit a specific site plan.

William F. Kirwin, an expert land planner and architect, testified that he believed the County Council committed error in the 1984 zoning maps. He also stated that the requested reclassification would be consistent with the surrounding classifications, would comply with the 502.1 requirements of the Baltimore County Zoning Regulations and would provide a reasonable use for the subject property.

John W. Guckert, a Traffic Engineer, testified that in his opinion the reclassification of the subject site would not adversely affect traffic flow or result in increased congestion.

Robert W. Mockard, et al
Case No. R-86-303

Mr. Guckert's testimony was questioned by the Protestants, however, it is apparent that the Protestants' questions concerned Mr. Guckert's description of East Avenue and Harford Road as a level A intersection rather than the resultant change or traffic flow and/or congestion resulting from a reclassification of the subject property.

Frederick P. Klaus, a real estate consultant, testified that in his opinion the County Council had committed error, that he was certain a BM classification rather than EL would have been placed on the subject property during the 1984 Comprehensive Zoning Process if it had been an issue and further that the reclassification of the subject property would comply with the 502.1 requirements of the Baltimore County Zoning Regulations.

James Hoswell, land planner for Baltimore County, testified that the present zoning of the subject property provides for a reasonable use of same. Through Mr. Hoswell, a letter dated January 27, 1986, directed to the Board of Appeals from Norman E. Gerber, Director of Planning and Zoning, was introduced as Petitioner's Exhibit 7. Mr. Hoswell stated that said letter was written with the knowledge that the requested reclassification was on an open site plan. Nevertheless, said letter recommends the requested reclassification.

It is also interesting to note that this Petition for Reclassification was exempted by the County Council from the normal cyclical procedures. This Board is persuaded that such unusual action by the County Council demonstrates the possibility that the County Council may believe error was committed during the 1984 Comprehensive Zoning Process.

Three witnesses were produced by the Protestants.

Robert W. Mockard, et al
Case No. R-86-303

The first witness, Mr. Maurice Barsotti, stated his primary concern was traffic congestion and the attendant effect the reclassification of the subject property will have on East Avenue. Mr. Barsotti also mentioned the possibility of an increase in crime in the area if the reclassification is granted.

Mrs. Mary Eck and Robert Eck reiterated Mr. Barsotti's concern about increased traffic. They also questioned the specific uses intended by the Petitioners should the reclassification request be granted. Given the extensive number and types of uses permitted in a BM zone, Mr. and Mrs. Eck were, justifiably, we believe, concerned with the proliferation of traffic and commercialization and industry in the area. Both Mr. and Mrs. Eck acknowledged, however, that they had no particular objection to the expansion of the car dealership.

After having considered all of the evidence, this Board is persuaded that the concerns expressed by Mr. Barsotti and Mr. and Mrs. Eck are legitimate. Life and the quality of that life is precious and the reclassification of the subject site shall impact this neighborhood. However, we are also persuaded that the County Council did commit error in not classifying the subject site BM during the 1984 zoning process. The subject properties are surrounded by BM zones. Only across Harford Road, on the other side of the street, are these other EL and PR zones. No PR zones are adjacent or contiguous to the subject property.

This Board is also cognizant of the fact that the Court of Appeals has consistently stated that a more liberal standard is employed when considering a reclassification from one commercial zone to another. At the same time, however, we cannot be oblivious to the problems anticipated by the surrounding neighborhood.

Robert W. Mockard, et al
Case No. R-86-303

The Petitioners' property and that upon which they are contract purchasers is peculiarly laid out. Although the particular property sought to be reclassified is not contiguous to a PR zone, much of the balance of Petitioners' property is so situated. Consequently, a specific site plan, obviously, would be preferred. Unfortunately none exists. Nevertheless, this Board cannot ignore what we believe to be obvious error. We can, however, endeavor to correct that error while protecting the quality of life of the surrounding neighborhood.

This Board shall, therefore, grant the requested reclassification for the specific purpose of expanding the existing used and new car dealership.

O R D E R

For the reasons set forth in the foregoing Opinion, it is this 6th day of March, 1986, by the County Board of Appeals, ORDERED that the Petition for Reclassification from EL-GS-2 to EM-GS-2 be and the same is GRANTED for the specific purpose of expanding the existing used and new car dealership.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Robert W. Cannon
Robert W. Cannon, Esquire

Robert W. Cannon
Robert W. Cannon, Esquire



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

March 6, 1986

Robert W. Cannon, Esq.
Stephen Rosen, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

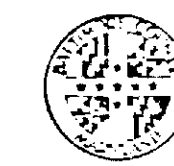
Case No. R-86-303
Robert W. Mockard, et al

Gentlemen:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,
Jane Holmer
Jane Holmer, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Frederick C. Friedman
Arnold Nelson
Jean Jung
James Dyer
Norman Gerber
James Hoswell



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-0553

ARNOLD JASON
ZONING COMMISSIONER
February 5, 1986

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Robert W. Mockard, et al - Petitioners
Case No. R-86-303

Dear Mr. Cannon:

This is to advise you that \$100.67 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Office, Room 113, County Office Building, hearing.

Sincerely,
Arnold Jason
Arnold Jason
Zoning Commissioner

TO: CPA-June
Date: 2-14-86 Time: 11:20 AM
WHILE YOU WERE OUT
M. Jason
J. Mark
Phone: 494-0553
Area Code: 410 Number: 0553 Extension: 0553
TELEPHONED: ☐ PLEASE CALL
CALLED TO SEE YOU: ☐ WILL CALL AGAIN
WANTS TO SEE YOU: ☐ URGENT
RETURNED YOUR CALL: ☐
Message: R-86-303 was paid on Feb 12 1986
11th Election District
Campbell 06301

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

January 10, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Petitioners: Robert W. Mockard, et al.
Case No. R-86-303

TIME: 10:00 A.M.

DATE: Wednesday, February 12, 1986

PLACE: Room 218, Courthouse, Towson, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE, REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 00000 W. T. Hackett
Hackett, Chairman
of Appeals

DATE: 1/10/86 ACCOUNT:

AMOUNT: \$

RECEIVED FROM:

FOR:

VALIDATION OR CHECK BY FISCAL CLERK

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William T. Hackett, Chairman
To County Board of Appeals Date: November 22, 1985

Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning

Zoning Reclassification Petition No. R-86-303
SUBJECT: Property Owners: Robert W. Mockard, et al

This 2.48-acre tract is part of a 14.5-acre property located on the northeast side of Harford Road at East Avenue. The portion of the property that is the subject of this petition is zoned B.L.-C.S.-2. On the opposite side of Harford Road are properties zoned B.L.-C.S.-2 and B.R.-C.S.-2, respectively. All of the remainder of the properties abutting the subject site and all of the remainder of the entire 14.5-acre property are zoned B.M., with a portion having a C.S.-2 District designation. The petition is proposing that the zoning classification of the subject 2.48-acre parcel of land be changed from B.L.-C.S.-2 to B.M.-C.S.-2, thereby placing the entire 14.5-acre property in the B.M. zoning classification.

This petition was exempted by action of the County Council from the normal cyclical procedures. At that time, the petitioner's representative stated that the overall property has been assembled for the purpose of razing the existing structures and constructing a new car dealership here.

It is this office's opinion that the petitioner's request should be granted. The replacement of the existing strip commercial use and of the Weber Storage and Moving operation with a single development would be expected to reduce traffic congestion at the site. Certainly, the problems experienced by the community with the Weber operation would be resolved. Further, through the future processing by the County of plans for the entire site, the opportunity exists to improve access to the entire property as well as buffering to protect the adjacent residential area; the County has been virtually powerless to address these concerns while faced with the existing use here.

It is therefore recommended that the petitioner's request be granted. It is this office's opinion that the resultant homogeneous zoning classification for the entire property coupled with the proposed redevelopment would be in the public interest.

Norman E. Gerber
Norman E. Gerber, AICP
Director

NEG:slm

cc: Phyllis Cole Friedman
Robert W. Cannon
J.G. Hisswell

3 SEP 24 1985
STANDARD MAIL
BALTIMORE

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE MD 21201

TELEPHONE (301) 332-8800
TELECOPIER (301) 332-8803

WRITER'S DIRECT DIAL NUMBER

(301) 332-8816

January 8, 1986

BY HAND DELIVERY

Mr. James E. Dyer
Zoning Office
First Floor,
County Office Building
Towson, Maryland 21204

Re: Zoning Reclassification Petition
Mockard, et al.
Harford Road

Dear Jim:

In accordance with our discussion enclosed you will find the amended legal description we have prepared to reflect the fact that this description follows the zoning lines. Two (2) copies are enclosed so that one can be utilized in connection with the publication.

I will supply you with copies of the description which have been sealed within a short time.

Thank you for your assistance.

Sincerely yours,

Robert W. Cannon
Robert W. Cannon

081/amr
Enclosure

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Thomas Toporovich
County Council Secretary - Administrator Date: November 22, 1985

Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning

Zoning Reclassification Petition: Steven R. Griffith, et al
SUBJECT: Request for exemption from cyclical procedures

At its meeting on November 21, 1985, the Baltimore County Planning Board certified to the County Council that early action on the subject Zoning Reclassification Petition would be in the public interest. I would appreciate your scheduling this item for Council consideration as soon as possible.

Thank you for your cooperation in this matter.

Norman E. Gerber
Norman E. Gerber, AICP
Director of Planning and Zoning

NEG:slm

attachments

cc: The Honorable Donald P. Hutchinson
County Executive

B. Melvin Cole
County Administrative Officer

William T. Hackett, Chairman
County Board of Appeals

Malcolm Spicer
County Solicitor

Phyllis Cole Friedman
People's Counsel

James E. Dyer
Zoning Supervisor

Robert W. Cannon, Esquire

BALTIMORE COUNTY PLANNING BOARD

RESOLUTION

November 21, 1985

WHEREAS, Pursuant to Subsection 2-58.1(1) of the Baltimore County Code 1973 as amended, the Baltimore County Planning Board has reviewed the request by Steven R. Griffith, et al to exempt from zoning cycle the subject reclassification petition; and

WHEREAS, The Planning Board believes that early action is required on this petition to provide for consideration of the timely expansion and benefits therefrom; therefore, be it

RESOLVED, That the Baltimore County Planning Board hereby certifies to the County Council of Baltimore County that early action on the subject Zoning Reclassification Petition would be in the public interest.

I HEREBY CERTIFY that the above resolution was duly adopted by the Baltimore County Planning Board at its meeting in Towson, Maryland, on November 21, 1985.

Norman E. Gerber
Norman E. Gerber, AICP
Secretary of the Baltimore County
Planning Board

Date

WEINBERG AND GREEN
ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MD. 21201

TELEPHONE (301) 332-8800
TELECOPIER (301) 332-8803

WRITER'S DIRECT DIAL NUMBER

(301) 332-8816

October 30, 1985

Mr. Norman Gerber,
Director
Office of Planning and
Zoning
Room 406
County Courts Building
Towson, Maryland 21204

Re: Petition of Steven R. Griffith, Saied Manocheh, Mohammad Pakdaman, Mohammad Manocheh, Ezzatollah Vahedi-Faridi, Mohammed-Hossein Tehrani, Robert W. Mockard and Mobil Oil Corporation (the "Petitioners") for Zoning Reclassification of Property Located at Harford Road and East Avenue

Dear Mr. Gerber:

On behalf of the Petitioners, we respectfully request that the subject petition for zoning reclassification be exempted from the cyclical zoning reclassification procedures and that your office recommend to the Planning Board that it certify to the County Council that early action upon said petition is manifestly required in the public interest or because of an emergency.

Early action by the Baltimore County Board of Appeals on the subject petition is manifestly required in the public interest. Steven R. Griffith ("Griffith") is presently involved in serious negotiations with an automobile manufacturer with the goal of adding a new automobile retail franchise operation to Griffith's current retail automobile operations located on property adjacent to the property for which the zoning reclassification is requested. In conjunction with the addition of this new franchise, Griffith plans to improve and expand his current operations, resulting in a large and modern automobile sales and service operation for both the current automobile franchise and the proposed new franchise. This new facility would substantially increase Griffith's overall sales and work force.

WEINBERG AND GREEN

Mr. Norman Berger
October 30, 1985
Page 2

resulting in additional employment and an expanded tax base for Baltimore County. In this regard, Griffith has contracted with his co-Petitioners to purchase several parcels of property adjacent to Griffith's current facility, portions of which parcels are located within a BL-CS-2 zone. In order to proceed with Griffith's plans, a reclassification of the property located within the BL zone must be granted.

The automobile manufacturer is requiring that the negotiations for the new dealership be concluded within a short period of time and is unable to defer its decision regarding the dealership for a period of time sufficient to allow Petitioners to request the zoning reclassification during the normal zoning cycle. Failure to obtain an expeditious decision with respect to the subject petition could, therefore, block the awarding of this new franchise to Griffith, resulting in the potential loss of an important new business in Baltimore County. In short, this is an emergency situation. Time is of the essence in this transaction and deferring the hearing of Petitioners' request by the Board of Appeals until late next year would almost certainly destroy the prospects of adding a substantial and important new business to the County.

As noted in Petitioners' petition, this reclassification is warranted by a substantial change in the character of the neighborhood and by error in the classification of the property in the last comprehensive zoning map revision. Further, the public interest would be well served by the razing and elimination of the Weber Moving and Storage facility. The Weber facility is in a poor and unsightly condition and its operation results in a substantial amount of tractor-trailer truck traffic into and out of the storage facility. The construction of modern, safe and clean improvements in place of the Weber facility would clearly improve the health, safety and general welfare of the public. Petitioners' inability to promptly secure the new automobile franchise would almost certainly block both the vitally required improvements to the Weber site and the implementation of a prime economic opportunity for Baltimore County.

Thank you for your consideration of this request.

Very truly yours,

Robert W. Cannon
Robert W. Cannon

238/cwp

cc: Hon. Kenneth W. Dryden, Chairman - Planning Board
Hon. James T. Smith, Jr., Chairman - County Council
Hon. Eugene W. Gallagher

IN THE MATTER OF THE PETITION
OF STEVEN R. GRIFFITH,
SAIED MANOCHEH, MOHAMAD PAKDAMAN,
MOHAMMED MANOCHEH,
EZZATOLLAH VAHEDI-FARIDI,
MOHAMMAD-HOSSEIN TEHRANIAN,
ROBERT W. MOCKARD, AND MOBIL
OIL CORPORATION FOR ZONING
RECLASSIFICATION OF CERTAIN
PARCELS OF LAND IN THE VICINITY
OF HARFORD ROAD AND EAST AVENUE

BEFORE THE
BALTIMORE COUNTY
BOARD OF
APPEALS

STATEMENT IN SUPPORT OF
PETITION FOR ZONING RECLASSIFICATION

Steven R. Griffith, Saied Manocheh, Mohamad Pakdaman, Mohammad Manocheh, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehrani, Robert W. Mockard and Mobil Oil Corporation ("Petitioners"), in support of their Petition for Zoning Reclassification filed herein, state that:

1. The Petitioners request a change in the zoning classification of certain parcels of land located at the southwest and southeast intersections of Harford Road and East Avenue, as shown on the plat attached hereto (the "Property") from a BL-CS-2 zone (business local) to a BM-CS-2 zone (business major).

2. An error in the classification of the Property in the 1984 comprehensive zoning map revision process and a substantial change in the character of the neighborhood in which the Property is located justifies reclassification of the Property from a BL to a BM zone.

3. As the attached plat indicates, the Property is bounded by Harford Road on one side and BM zoned land to the other three sides. The Property was obviously overlooked during the previous comprehensive zoning map revision process and was left surrounded primarily by property with a higher use classification. Extension of the surrounding BM zone into the Property would complete the desirable reclassification of the surrounding area into contiguous BM zoned land, unbroken by pockets of BL zoned parcels. The present erroneous classification of the Property prohibits uses compatible with the present and future development and characteristics of the surrounding BM zoned areas. Thus, reclassification of the zoning for the Property to a BM zone would allow for development of the Property in a planned orderly manner more closely in keeping with the dominant land use of the surrounding area.

4. The requested zoning reclassification would not affect the availability and adequacy of the present transportation facilities, water-supply facilities, waste-water facilities, or other public facilities which serve the area. Adoption of the BM zone for the Property would in no manner be detrimental to the health, safety or general welfare of the public in the surrounding area. If the requested zoning reclassification is granted, the then available uses for the Property and surrounding area would eliminate the substantial amount of tractor-trailer truck

traffic into and out of the Weber Moving and Storage facility located on an adjacent parcel. The elimination of the Weber facility, which is in a poor and unsightly condition, and the construction in its place of safe, sanitary and modern improvements would clearly be in the public interest.

For all of the foregoing reasons, the Petitioners respectfully request that their petition for zoning reclassification be granted.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816

Attorney for Petitioner

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY,
Appellant
v.
ROBERT W. MOCKARD, et al.,
Appellees

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Case No. 86-CG-1262

NOTICE OF APPEAL

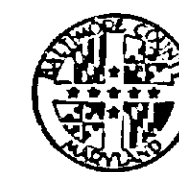
Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in the above-captioned matter, under date of March 3, 1987, and forward all papers in connection with said matter to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 2nd day of April, 1987, a copy of the foregoing Notice of Appeal was mailed to Robert W. Cannon, Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201; and Stanley H. Miller, Esquire, Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, MD 21202.

Phyllis Cole Friedman
Phyllis Cole Friedman



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

July 21, 1987

Howard E. Friedman, Clerk
Court of Special Appeals
of Maryland
Annapolis, MD 21401-1698

Re: Case No. 86-CG-1262
(Robert W. Mockard, et al)

Dear Mr. Friedman:

We would appreciate your noting our request for a copy of the Opinion in the above-entitled case when it is filed by the Court of Special Appeals.

Thank you.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Secretary

ROBT. W. MOCKARD, ET AL
Harford Rd. and East Ave.
BL-CS-2 to BM-CS-2

R-86-303, Item 166
11th District

| | |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| Dec. 12, 1985 | Petition filed |
| Feb. 12, 1986 | Hearing before the Board |
| March 6 | Order of the Board GRANTING the reclassification for the purpose of expanding the existing use and new car dealership. |
| Apr. 4 | Order for Appeal filed in the Cir. Ct. by Phyllis C. Friedman, People's Counsel |
| Apr. 4 | Order for Appeal filed in the Cir. Ct. by Stanley Miller, Esq. on behalf of Michael L. Eck, protestant. |
| Apr. 4 | Certificate of Notice sent out |
| Apr. 7 | Order for Appeal filed in the Cir. Ct. by Robt. W. Cannon, Esq., on behalf of Petitioners. |
| Apr. 9 | Certificate of Notice sent out |
| May 8 | Extension of Time to Transmit Record |
| Aug. 1, 1986 | Record of proceedings filed in the Cir. Ct. for Balto. County |
| Aug. 25 | PC's Memo filed in CCA. |
| Aug. 29 | Extension of Time to File Memoranda to 29th day of October 1986 |
| Oct. 29 | Petitioner's Memorandum filed. |
| Feb. 10, 1987 | Appellant's (Michael D. Eck) Consent to Judgment in Favor of Robert W. Mockard, et al filed |
| Feb. 11 | Hearing held; Opinion order to be filed. (Hon. William M. Mickerson) |
| March 4 | REVERSED condition imposed on reclassification; REMENDED to CBA for findings consistent with Sec. 2-5B.1(j)(2), Co Code, 1978 Ed., as amended |
| April 2 | Notice of Appeal filed by PC to Ct of Special Appeals |
| December 7 | Circuit Court AFFIRMED by CSA. |

PETITION FOR ZONING RE-CLASSIFICATION
SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law

of Baltimore County, from an BL-CS-2 zone to an BM-CS-2 zone, for the reasons given in the attached statement; and (2) for a Special Exception under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for

and (3) for reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County:

NE 9-5
4-C
1174
1-C
300

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

| | |
|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Contract Purchaser: | Legal Owner(s): |
| STEVEN R. GRIFFITH (Type of Print Name) | ROBERT W. MOCKARD (Type of Print Name) |
| <i>Steven R. Griffith</i> Signature | <i>Robert W. Mockard</i> Signature |
| DOUG GRIFFITH CHRYSLER PLYMOUTH, INC. Address | MOBIL OIL CORPORATION (Type of Print Name) |
| 2812 HARFORD ROAD Address | By: <i>Robert W. Cannon</i> Signature ROBERT W. CANNON, Attorney and Authorized Representative [See attached continuation of signature page] |
| BALTIMORE, MARYLAND 21234 City and State | Address Phone No. |
| Attorney for Petitioner: | City and State |
| ROBERT W. CANNON, ESQUIRE (Type of Print Name) | Name, address and phone number of legal owner, contract purchaser or representative to be contacted |
| <i>Robert W. Cannon</i> Signature | ROBERT W. CANNON, ESQUIRE Name |
| WEINBERG AND GREEN Address | WEINBERG AND GREEN Address (301) 332-8816 Phone No. |
| 100 SOUTH CHARLES STREET Address | |
| BALTIMORE, MARYLAND 21201 City and State | |

Attorney's Telephone No.: (301) 332-8816

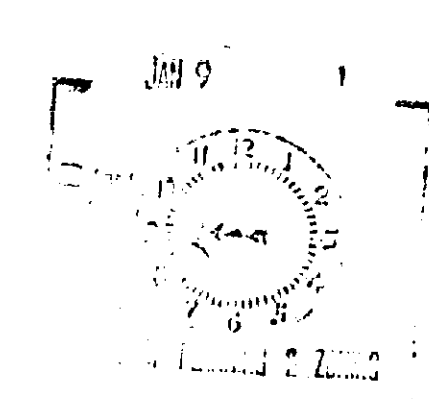
ZONING DESCRIPTION

As Amended 1/7/86

Description of current BL-CS-2 area to be reclassified as BM-CS-2

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.



PETITION FOR RECLASSIFICATION
11th Election District

LOCATION: Northeast Corner of Harford Road and East Avenue
(now abandoned)

PUBLIC HEARING: Wednesday, February 12, 1986 at 10:00 a.m.
in Room 218, Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Reclassify zoning status of property from a BL-CS-2 zone to a BM-CS-2 zone.

All that parcel of land in the 11th District of Baltimore County

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.

The property of
ROBERT W. MOCKARD, ET AL
as shown on the plan plan filed
with the Zoning Department.

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
BALTIMORE COUNTY

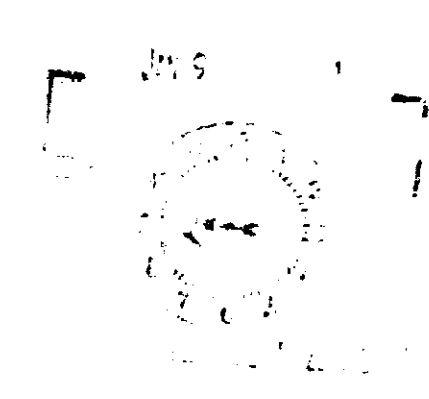
ZONING DESCRIPTION

As Amended 1/7/86

Description of current BL-CS-2 area to be reclassified as BM-CS-2

Beginning for the same at a point in the centerline of Harford Road as shown on S.R.C. Plat Number 2696, said point being at the intersection of the centerline of East Avenue (now abandoned) as shown on a Plat of Leggett Heights recorded among the Land Records of Baltimore County, Maryland in Plat Book 7, Folio 157, thence running with and binding on the centerline of Harford Road, North 41 degrees 59 minutes East, 440 feet to a point on the zoning line dividing BL-CS2 property from BM-CS2 property, thence leaving said centerline of Harford Road and running the following two courses along said zoning line: South 48 degrees 41 minutes East, 300 feet to a point on the zoning line dividing BL-CS2 property from BM property, and South 41 degrees 59 minutes West along said zoning line, 200 feet to a point along the centerline of East Avenue as now relocated on the zoning line dividing BL-CS2 property from BM property, thence running with the said centerline of relocated East Avenue and said zoning line, North 48 degrees 41 minutes West, 100 feet along said zoning line, thence leaving the centerline of relocated East Avenue and running South 41 degrees 59 minutes West on the zoning line dividing BL-CS2 property from BM property, 240 feet along said zoning line to a point in the centerline of the abandoned East Avenue as shown on the aforementioned Plat of Leggett Heights, thence binding on the said centerline of abandoned East Avenue, North 48 degrees 41 minutes West along said zoning line, 200 feet to the place of beginning.

Containing 2.48 Acres of land more or less and lying in the 11th Election District and the 6th Councilmatic District of Baltimore County Maryland.



IN THE MATTER OF THE
APPLICATION FOR
RECLASSIFICATION FROM
BL-CS-2 to BM-CS-2 ZONE
NE Corner of Harford Rd.
and East Ave. (now
abandoned), 11th District

BEFORE THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

ROBERT W. MOCKARD, et al.,
Petitioners

Zoning Case No. R-86-303

ENTRY OF APPEARANCE

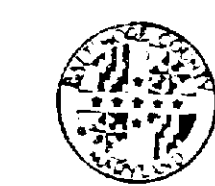
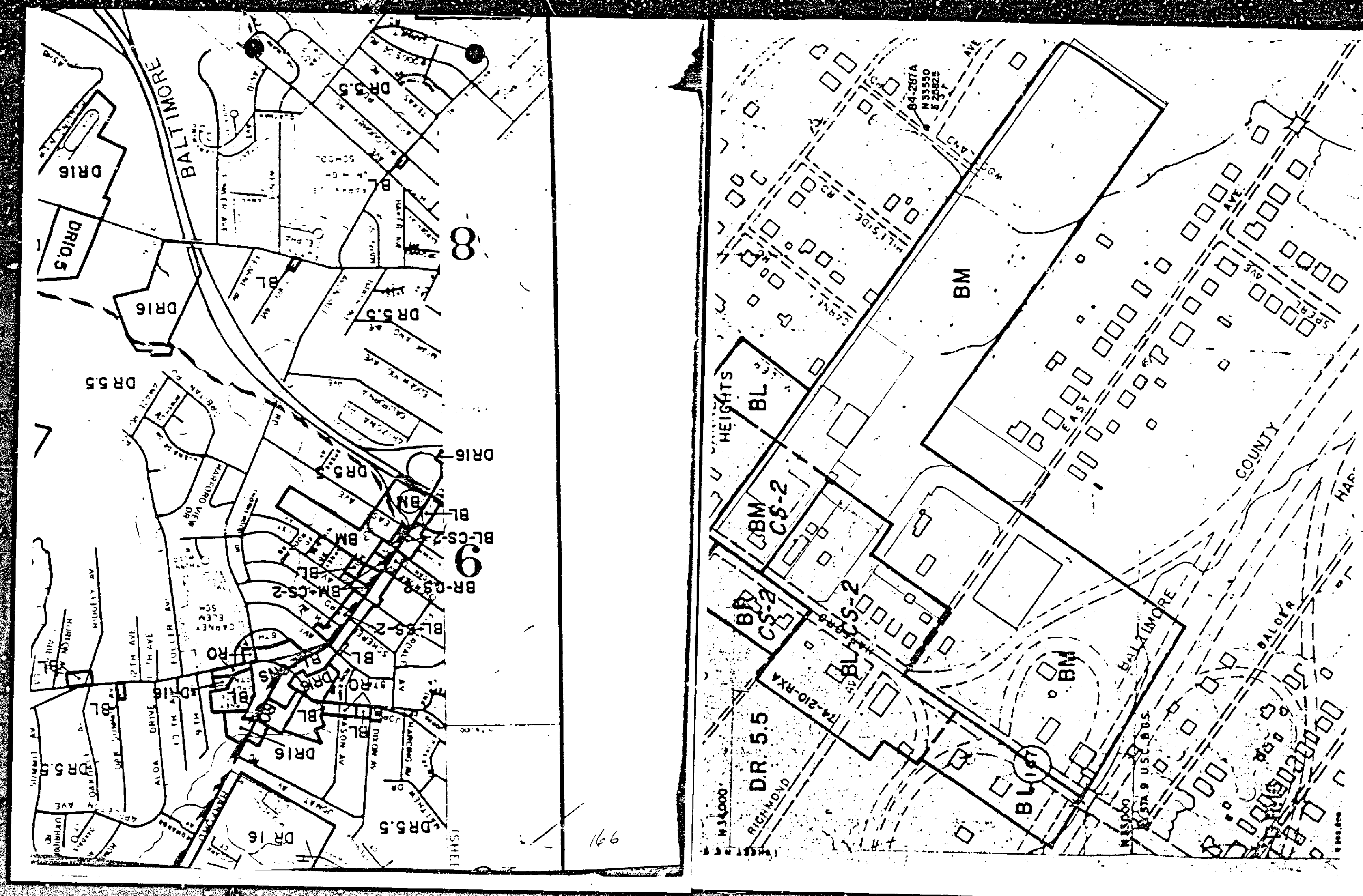
Please enter the appearance of the People's Counsel in the
above-captioned matter. Notices should be sent of any hearing dates or
other proceedings in this matter and of the passage of any preliminary
or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 13th day of January, 1986, a
copy of the foregoing Entry of Appearance was mailed to Robert W. Cannon,
Esquire, Weinberg and Green, 100 S. Charles St., Baltimore, MD 21201;
and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford
Rd., Baltimore, MD 21234, Contract Purchaser.

Peter Max Zimmerman
Peter Max Zimmerman



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3183
April 3, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Dear Mr. Cannon:

Re: Case No. R-86-303
Robert W. Mockard, et al.

Enclosed herewith please find copy of Motion to
Strike and for Expedited Proceedings which was denied by the
Board this date.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Michael D. Eck
Phyllis C. Friedman
Arnold Jablon
Jean Jung
James Dyer
Norman Gerber
James Hoswell

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL.
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 to BM-CS-2
11TH DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

No. R-86-303
Item #166

MOTION TO STRIKE AND FOR EXPEDITED PROCEEDINGS

Petitioners, Steven R. Griffith and Mobil Oil
Corporation, by their attorney, Robert W. Cannon, respectfully
move that the Board strike the last paragraph of the Opinion
and the entire Order issued herein on March 6, 1986, to allow
time for discussions among counsel for each party as to an
appropriate form of the Order and the subsequent determination
by the Board of an acceptable form of the Order, during which
time the Board shall retain jurisdiction over this matter.

Petitioners also move for an expedited hearing on
this motion on the ground that the 30 day period during which
the Board has revisory power and control over the Order
pursuant to Rule 10 of the Rules of Practice and Procedure of
the County Board of Appeals expires on April 5, 1986.

People's Counsel has been consulted and have advised
Petitioner's attorney that they have no objection to the entry
of the herein requested Order.

WHEREFORE, in accordance with the foregoing Motion,
and the proposed Order set forth below, Petitioners pray that
the Board issue an Order striking the last paragraph of the
Opinion and the entire Order issued herein on March 6, 1986,
pending reconsideration of the form of said Order.

Robert W. Cannon
Robert W. Cannon
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Petitioners

ORDER

For the reasons set forth in the foregoing Motion,
it is this ____ day of April, 1986, by the County Board of
Appeals, ORDERED that the last paragraph of the Opinion and
the entire Order granted herein on March 6, 1986 be struck,
pending reconsideration of the form of said Order, during
which time the Board shall retain jurisdiction over this
matter.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans
William R. Evans

Lesley S. Spurrier
Lesley S. Spurrier

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12 day of April, 1986, a
copy of the foregoing Motion to Strike and For Expedited
Proceedings was served on People's Counsel, by leaving a copy
thereof with *Phyllis C. Friedman*, at Room 223, Court House,
Towson, Maryland 21204.

Robert W. Cannon
Robert W. Cannon
Attorney for Petitioners



County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3183
April 4, 1986

Robert W. Cannon, Esq.
Weinberg & Green
100 S. Charles St.
Baltimore, Md. 21201

Dear Mr. Cannon:

Re: Case No. R-86-303
Robert W. Mockard, et al.

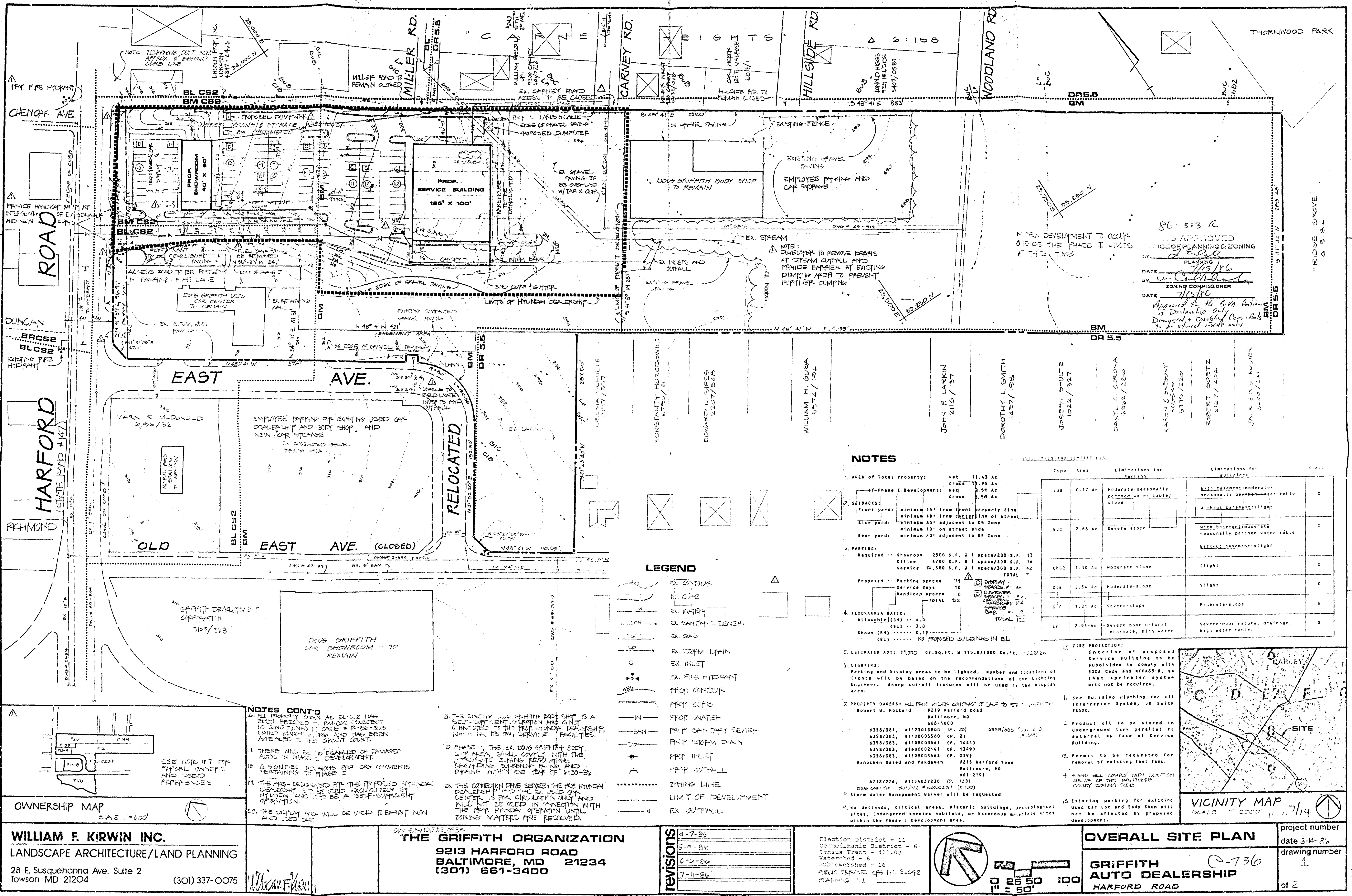
Notice is hereby given, in accordance with
the Rules of Procedure of the Court of Appeals of Maryland,
that an appeal has been taken to the Circuit Court for
Baltimore County from the decision of the County Board
of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate
of Notice.

Very truly yours,

Jane Holmen
Jane Holmen, Secretary

Encl.
cc: Steven R. Griffith
Arnold Jablon
Jean Jung
James Dyer
Norman Gerber
James Hoswell



86-303 R
IS APPROVED
OFFICE OF PLANNING & ZONING
DATE 7/15/86
BY [Signature]
ZONING COMMISSIONER
DATE 7/15/86
Approved by the 6 M. Nation
of Dealership Only
Damaged & Disabled Cars + Parts
No Noisy or Loud Music

NOTES

- 1. AREA of Total Property: Net 11.43 Ac, Gross 11.95 Ac
- 2. SETBACKS: Front yard: minimum 15' from front property line; Side yard: minimum 35' adjacent to DR Zone; Rear yard: minimum 20' adjacent to DR Zone
- 3. PARKING: Required -- Showroom 2500 S.F. @ 1 space/200 S.F.; Office 4700 S.F. @ 1 space/300 S.F.; Service 12,500 S.F. @ 1 space/300 S.F.
- 4. FLOOR AREA RATIO: Allowable (BL) -- 4.0; Shown (BL) -- 3.0; (BL) -- NO PROPOSED BUILDINGS IN BL
- 5. ESTIMATED ADT: 17,000 Gr. Sq. Ft. @ 115.8/1000 Sq. Ft. -- 228/26
- 6. LIGHTING: Parking and Display areas to be lighted. Number and locations of lights will be based on the recommendations of the Lighting Engineer.
- 7. PROPERTY OWNERS: ALL PROP. UNDER CONTRACT OF SALE TO GR. & GRIF. TH
- 8. FIRE PROTECTION: Interior of proposed Service Building to be subdivided to comply with BOCA Code and NFPA 800, so that sprinkler system will not be required.
- 9. See Building Plumbing for Oil Interceptor System, JR Smith #8520.
- 10. Product oil to be stored in underground tank parallel to external NW face of Service Building.
- 11. Permit to be requested for removal of existing fuel tank.
- 12. Signs will comply with Section 40.22 of the Baltimore County Zoning Code.
- 13. Existing parking for existing Used Car Lot and Body Shop will not be affected by proposed development.

| Type | Area | Limitations for Parking | Limitations for Buildings | Class |
|------|---------|------------------------------------------------|----------------------------------------------------------------------------------|-------|
| BUB | 0.17 Ac | Moderate-seasonally perched water table; slope | With basement: moderate-seasonally perched water table; Without basement: slight | C |
| BUC | 2.66 Ac | Severe-slope | With basement: moderate-seasonally perched water table; Without basement: slight | C |
| CHB2 | 1.30 Ac | Moderate-slope | Slight | C |
| CLB | 2.54 Ac | Moderate-slope | Slight | C |
| CIC | 1.01 Ac | Severe-slope | Moderate-slope | B |
| Lr | 2.95 Ac | Severe-poor natural drainage, high water | Severe-poor natural drainage, high water table. | D |

LEGEND

- EX. CONTOUR
- EX. C/P
- EX. WATER
- EX. SANITARY SEWER
- EX. GAS
- EX. STORM DRAIN
- EX. INLET
- EX. FIRE HYDRANT
- PROP. CONTOUR
- PROP. CURB
- PROP. WATER
- PROP. SANITARY SEWER
- PROP. STORM DRAIN
- PROP. INLET
- PROP. OUTFALL
- ZONING LINE
- LIMIT OF DEVELOPMENT
- EX. OUTFALL

NOTES CONT'D

- 16. ALL PROPERTY SHOWN AS BL C82 HAS BEEN RETURNED TO GR. & GRIF. TH TO BE CONDITIONED TO GR. & GRIF. TH R-80-303 DATED MARCH 2, 1980 AND HAS BEEN APPEALED TO THE CIRCUIT COURT.
- 17. THERE WILL BE NO DISABLED OR DAMAGED AUTO IN PHASE I DEVELOPMENT.
- 18. A SIGNIFICANT REDUCTION PER CRO COMMENTS PERTAINING TO PHASE I.
- 19. THE AREA DESIGNATED FOR THE PROPOSED HYUNDAI DEALERSHIP IS TO BE USED EXCLUSIVELY BY HYUNDAI AND IS TO BE A SELF-SUFFICIENT OPERATION.
- 20. THE DISPLAY AREA WILL BE USED TO EXHIBIT NEW AND USED CARS.
- 21. THE EXISTING DUBS GRIFFITH BODY SHOP IS A SELF-SUFFICIENT OPERATION AND IS NOT CONNECTED TO THE PROP. HYUNDAI DEALERSHIP, WHICH HAS ITS OWN SERVICE FACILITIES.
- 22. PHASE I: THE EX. DUBS GRIFFITH BODY SHOP AREA SHALL COMPLY WITH THE EXISTING ZONING REGULATIONS REGARDING SCREENING, FENCING AND PARKING WITHIN THE YEAR OF 6-30-86.
- 23. THE CONNECTION PIPE BETWEEN THE PROP. HYUNDAI DEALERSHIP AND THE EX. USED CAR CENTER IS FOR CIRCULATION ONLY AND WILL NOT BE USED IN CONNECTION WITH THE PROP. HYUNDAI OPERATION UNTIL ZONING MATTERS ARE RESOLVED.

WILLIAM F. KIRWIN INC.
LANDSCAPE ARCHITECTURE/LAND PLANNING
28 E. Susquehanna Ave. Suite 2
Towson MD 21204
(301) 337-0075

THE GRIFFITH ORGANIZATION
9213 HARFORD ROAD
BALTIMORE, MD 21234
(301) 681-3400

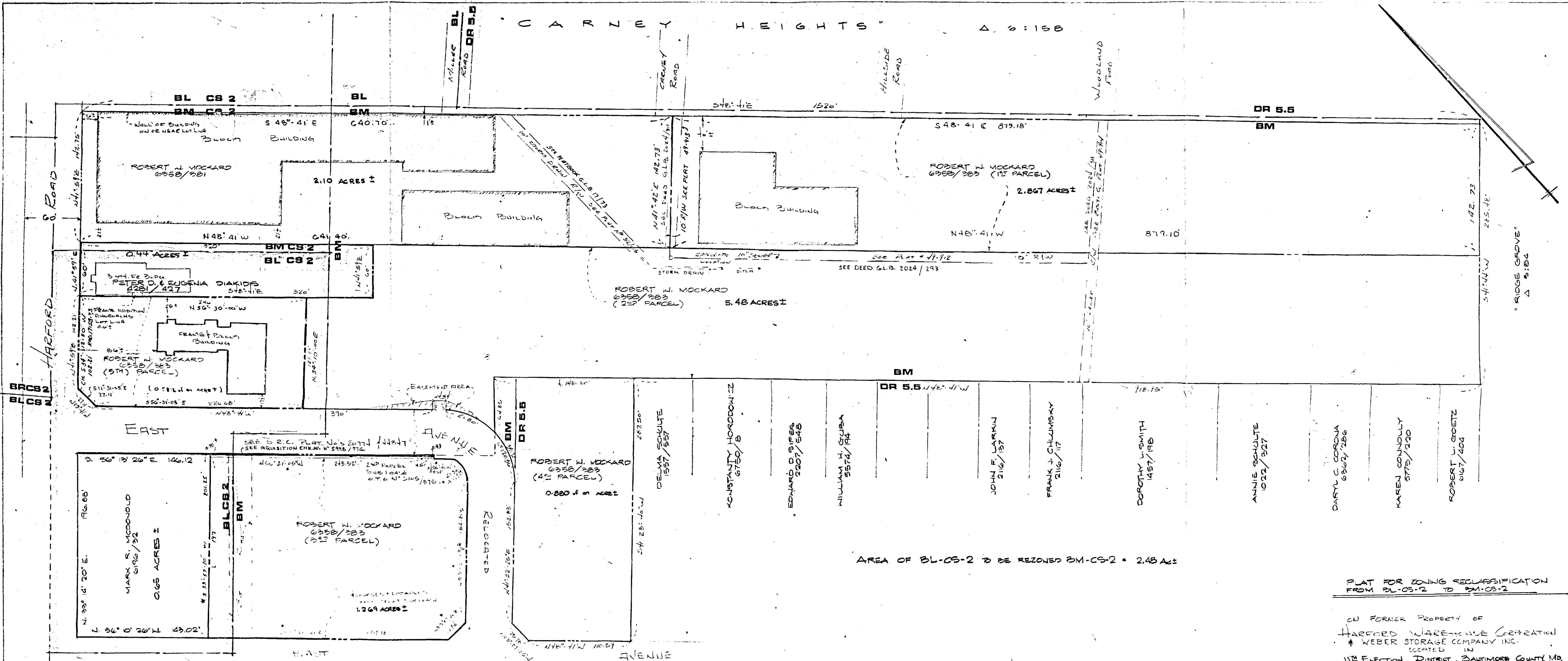
| | |
|-----------|---------|
| revisions | 4-7-86 |
| | 5-9-86 |
| | 6-3-86 |
| | 7-11-86 |

Election District - 11
Councilmanic District - 6
Census Tracts - 411.02
Watershed - 6
Subwatershed - 18
RURAL REP/REC CFS 11.8/648
PLANNING 1.1

OVERALL SITE PLAN
GRIFITH AUTO DEALERSHIP
HARFORD ROAD
project number
date 3-14-86
drawing number
1
of 2

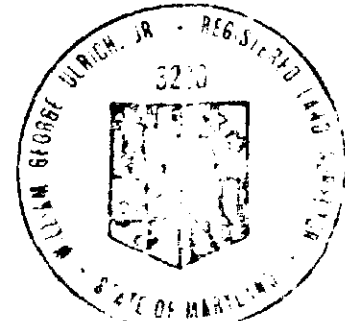
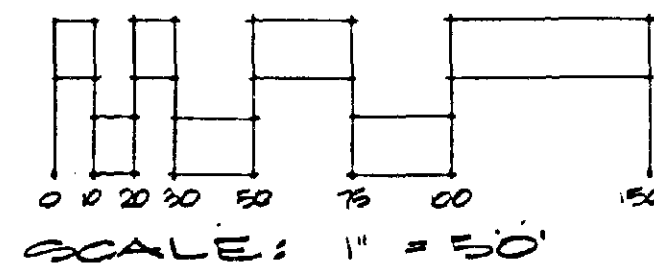
CARNEY HEIGHTS

Δ 6:158



NOTE: THE PROPERTY LINE INFORMATION SHOWN HEREON WAS PREPARED BY GERHOLD, CROSS, & ETZEL, INC. IN 12-81. SUPPLEMENTAL INFORMATION HAS BEEN ADDED FOR THE PURPOSE OF FILING A ZONING RECLASSIFICATION PETITION BY WILLIAM F. KIRWIN, INC., OCTOBER 30, 1985

DOUGLAS W. & BARBARA GRIFFITH
505/422



PLAT FOR ZONING RECLASSIFICATION
FROM BL-CS-2 TO BM-CS-2

ON FORMER PROPERTY OF
HARFORD WAREHOUSE CORPORATION
& WEBER STORAGE COMPANY, INC.
LOCATED IN
11th ELECTION DISTRICT, BALTIMORE COUNTY, MD.
6th COUNCILMATIC DISTRICT

AS ORIGINALLY PREPARED BY
GERHOLD, CROSS, & ETZEL
REG. PROFESSIONAL LAND SURVEYORS
412 DELAWARE AVE., TOWSON, MD.
REVISED 12-28-81
REVISED 12-21-81

WFK WILLIAM F. KIRWIN, INC.
Land Planning, Landscape Architecture
28 E. Susquehanna Avenue
Towson, MD 21204
Phone 301-337-0075

OFFICE COPY

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND EAST AVENUE
FROM EL-CS-2 TO EM-CS-2 ZONE
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

MICHAEL D. ECK, PLAINTIFF
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, PLAINTIFF

Doc. No. 24
Folio No. 102
File No. 85-07-1262

ZONING FILE NO. R-86-303

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule 3-2(d) of the Maryland Rules of Procedure, William T. Hackett, LeRoy B. Spurrier and William R. Evans, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeals to the representative of every party to the proceeding before it; namely, Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 219 E. Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles Street, Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Road, Baltimore, Md. 21234, Contract Purchaser, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore
County, Rm. 200, Court House
Towson, Md. 21204
494-3190

Robert W. Mockard, et al
Case No. R-86-303

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael D. Eck, 9304 Carney Rd., Baltimore, Md. 21234, Plaintiff; Stanley H. Miller, Esq., Suite 200, Knickerbocker Bldg., 219 East Lexington St., Baltimore, Md. 21202, Counsel for Plaintiff; Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, Plaintiff; Robert W. Cannon, Esq., Weinberg & Green, 100 S. Charles St., Baltimore, Md. 21201, Counsel for Petitioners, Robert W. Mockard, et al; and Steven R. Griffith, Doug Griffith Chrysler Plymouth, Inc., 9213 Harford Rd., Baltimore, Md. 21234, Contract Purchaser, on this 4th day of April, 1986.

June Holmen
County Board of Appeals of Baltimore County

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

February 10, 1986

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

RE: Item No. 166 - Case No. R-86-303
Petitioners - Robert W. Mockard, et al
Reclassification Petition

Dear Mr. Cannon:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:mr

Enclosures

cc: William F. Kirwin, Inc.
28 East Susquehanna Avenue
Towson, Maryland 21204

Maryland Department of Transportation

State Highway Administration

William K. Hellmann
Secretary
Hal Kassoff
Administrator

November 15, 1985

Mr. A. Jablon
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Item #166
Property Owner: Robert
W. Mockard
Location: NE corner
Harford Road (Route 147)
and East Avenue
Existing Zoning: B.L.
CS-2
proposed Zoning B.M.
CS-2
Acres: 2.48
District 11th

At: James Dyer

Dear Mr. Dyer:

On review of the revised submittal of 12/28/81 and field inspection, the S.H.A. finds the proposed change in zoning from B.L. & B.M. to CS-2 generally acceptable.

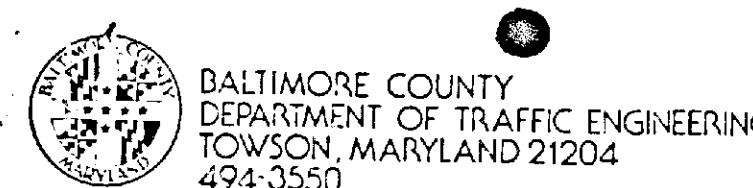
Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engr. Access Permits
by: George Wittman

CL-GW:es

cc: J. Ogle

My telephone number is 301 659-1350
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
P.O. Box 717/707 North Calvert St., Baltimore, Maryland 21203-0717



STEPHEN E. COLLINS
DIRECTOR

January 7, 1986

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 166 -ZAC- Meeting of November 12, 1985
Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
Existing Zoning: B.L. - CS-2
Proposed Zoning: B.M. - CS-2

Acres: 2.48
District: 11th

Dear Mr. Jablon:

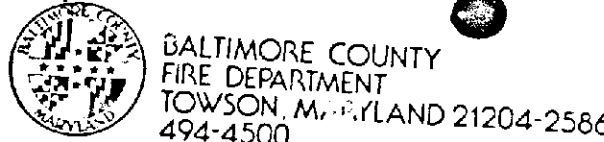
This site is 2 different parcels of land with two different uses. On the south east corner of Harford Road and East Avenue is a gas station which is using the public side walks for parking, not maintaining the setback for parking along Harford Road. Parking on the sidewalk causes a safety problem for pedestrians and not maintaining the setbacks causes sight distance problems for setbacks existing from East Avenue.

On the north east corner of East Avenue and Harford Road is the second parcel of land, which is occupied by a car dealer. The dealer is parking in the R/V not maintaining the setback and has an entrance on East Avenue that exceeds the maximum width.

The proposed change to the zoning is not expected to be a major traffic problem.

Michael S. Flanagan
Traffic Engineer Associate II

MSE/bld



PAUL H. REINCKE
CHIEF

November 22, 1985

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
166 Item No.: 166
Zoning Agenda: Meeting of November 12, 1985

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- (X) 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: [Signature]
Planning Group
Special Inspection Division

Noted and Approved: [Signature]
Fire/Prevention Bureau

/mb



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

November 21, 1985

TED ZALESKI, JR.
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 166 Zoning Advisory Committee Meeting are as follows:
Property Owner: Robert W. Mockard
Location: NE corner Harford Road and East Avenue
District: 11th.

APPLICABLE STANDARDS ARE CITED:

1. All structures shall conform to the Baltimore County Building Code as adopted by Council Bill 10-85, the Maryland Code for the Handicapped and Lord (A.D. 1974, 1980) and other applicable codes and standards.
2. A building and other miscellaneous permits shall be required before the start of any construction.
3. Residential: Two sets of construction drawings are required to file a permit application. The seal of a registered in Maryland Architect or Engineer is not required on plans and technical data.
4. Commercial: Three sets of construction drawings sealed and signed by a registered in Maryland Architect or Engineer shall be required to file with a permit application. Registered seals are not acceptable.
5. All fire groups except 1-4 Single Family Detached Dwelling require a minimum of 1 hour fire rating for exterior walls closer than 6' to an interior lot line. See fire groups require a one hour wall if closer than 10' to an interior lot line. Any wall built in an interior lot line shall require a fire of party wall. See Section 3-10.1 Section 3-10.2 and Table 3-10.1. No openings are permitted in an exterior wall within 10' of an interior lot line.
6. The structure does not appear to comply with Table 3-15 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 3-15 and 3-17 and have your Architect/Engineer contact this department.
7. The proposed structure appears to conflict with Section 3-10.1 of the Baltimore County Building Code.
8. When filing for a required Change of Use/Geography Permit, an alteration permit application shall also be filed and must show area of proposed construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are not acceptable. The change of use permit is from the use of the existing structure to the new use. See Section 3-10.1 of the Building Code.
9. The proposed project appears to be located in a Flood Plain, Flood Hazard Area. Please see the attached copy of Section 3-10.1 of the Building Code as adopted by Bill 10-85. Site plans shall show the current elevations above sea level for the lot and the finished floor levels including basement.
10. Comments: Should the change of use of any structure be proposed, a change of occupancy would be required. The building would have to be capable of complying or being made to comply to the Building Code in force at the time.
11. These abbreviated comments reflect only on the information provided by the applicant submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, the applicant may obtain additional information. Procedures Book 101 of the County Office Building at 111 Chesapeake Avenue, Towson, Maryland 21204.

By: [Signature]
Building Plans Section



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

February 5, 1986

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Robert W. Mockard, et al - Petitioners
Case No. R-86-303

Dear Mr. Cannon:

This is to advise you that \$100.00 is due for advertising and posting of the above property. This fee must be paid before an order is issued.

Please make the check payable to Baltimore County, Maryland, and remit to Ms. Margaret E. du Bois, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

Arnold Jablon
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No.

DATE _____ ACCOUNT _____

AMOUNT \$ _____

RECEIVED FROM _____

FOR _____

VALIDATION OR SIGNATURE OF CASHIER

Robert W. Cannon, Esquire
Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201

January 10, 1986

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION
Northeast Corner of Harford Road and East Avenue
(now abandoned) - 11th Election District
Petitioners: Robert W. Mockard, et al.
Case No. R-86-303

TIME: 10:00 A.M.

DATE: Wednesday, February 12, 1986

PLACE: Room 218, Courthouse, Towson, Maryland

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

cc: People's Counsel

REPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 451

September Term, 1987

PEOPLE'S COUNSEL
FOR BALTIMORE COUNTY

v.

ROBERT W. MOCKARD, et al

Wilner
Alpert
Bell, Rosalyn B.,
JJ.

OPINION BY BELL, ROSALYN B., J.

Filed: December 7, 1987

ZONING CASE NO. R-86-303

RECEIVED APPEALS
COUNTY BOARD OF APPEALS
1987 DEC -9 A 11:00

- 14 -

Although with more specificity than expressed by the trial judge, we affirm the remand of the case for the Board to decide whether there was an error in the comprehensive zoning plan. In making that determination, the Board must at least "consider," as we have defined that word, the factors found in § 2-58.1(j)(2). Secondly, the Board must at least "consider" those factors and make specific findings as to whether the proposed reclassification is warranted.

JUDGMENT AFFIRMED.
COSTS TO BE DIVIDED EQUALLY BY
APPELLANTS/CROSS-APPELLEES AND
APPELLEES/CROSS-APPELLANTS.

(17) Oct. 29, 1986 = Petitioners Memorandum fd.

CASE NO.

(18) Feb. 10, 1987 - Appellant's (Michael D. Eck) Consent to Judgment in Favor of Robert W. Mockard, et al fd.

Feb. 11, 1987 Hon. William M. Nickerson. Hearing had. Disposition of hearing held Sub Curia. Opinion order to be filed.

(19) Mar 4, 1987 - Opinion and Order of Court that the decision of the County Board of Appeals be and the same is hereby Reversed as to the condition imposed on reclassification, and further Ordered that the case be REMANDED to the County Board of Appeals for findings consistent with this opinion. (WMN) Copies sent.

ROBERT W. MOCKARD, ET AL
Harford Rd. and East Ave.

R-76-303
Item #156
11th District

BL-CS-2 to BM-CS-2 2.48 acres

Oct. 30, 1985 Petition filed (OUT OF CYCLE)
Nov. 21, 1985 Planning Board certified to County Council that case could be considered for early action.

Dec. 2 County Council approved Planning Board's Motion certifying early action.

Robert W. Cannon, Esq. Counsel for Petitioner
Weinberg & Green
100 S. Charles St. (21201)
Stephen R. Griffith Contract Purchaser
Doug Griffith Chrysler
Plymouth, Inc.
9213 Harford Rd. (21234)

Robert W. Mockard, et al Petitioners

Phyllis C. Friedman People's Counsel

Arnold Jablon
Jean M.H. Jung
James Dyer
Norman Gerber
James Hoswell

MICHAEL D. ECK SLDG ORDER
9304 CARNEY RD. (21234) (Protestant)

Stanley H. Miller, Esq. Counsel for Protestant
Knickerbocker Bldg.
Suite 200
218 E. Lexington St.
(21204)

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD RD. AND EAST AVE.
FROM BL-CS-2 TO BM-CS-2
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

MICHAEL D. ECK, PLAINTIFF
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, PLAINTIFF
ROBERT W. MOCKARD, ET AL,
PLAINTIFFS

Doc. No. 24
Folio No. 102
File No. 86-CG-1262

ZONING FILE NO. R-56-303
CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING
COMMISSIONER AND THE BOARD OF APPEALS OF
BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, LeRoy B. Spurrier and
William R. Evans, constituting the County Board of Appeals of Baltimore County,
and in answer to the Order for Appeal directed against them in this case,
herewith return the record of proceedings had in the above entitled matter,
consisting of the following certified copies or original papers on file in the
office of the Zoning Department of Baltimore County:

ZONING ENTIRES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE
COUNTY

No. R-56-303
December 12, 1985 Petition filed for reclassification from BL-CS-2 to
BM-CS-2 on property located at Harford Rd. and East Ave.
in the 11th District of Balto. County
January 17, 1986 Certificate of Posting of property - filed
January 23 Publication in newspaper - filed
February 10 Comments of Balto. County Zoning Plans Advisory
Committee - filed
February 12 At 10:00 a.m. hearing held on petition by County Board
of Appeals

Robert W. Mockard, et al
Case No. R-56-303

March 6, 1986 Order of the County Board of Appeals ordering that the
Petition for Reclassification from BL-CS-2 to BM-CS-2
be GRANTED for the specific purpose of expanding the
existing used and new car dealership.
April 3 Motion to Strike and for Expedited proceedings DENIED
April 4 Order for Appeal filed in the Circuit Ct. for Baltimore
County by Phyllis C. Friedman, People's Counsel for
Baltimore County.
April 4 Petition to accompany Order for Appeal filed in the Circuit
Ct. for Baltimore County
April 4 Order for Appeal filed in the Circuit Ct. for Baltimore
County by Stanley H. Miller, Esq., on behalf of
Michael D. Eck, Protestant.
April 4 Petition to accompany Order for Appeal filed in the Cir-
cuit Ct. for Baltimore County
April 4 Certificate of Notice sent to interested parties.
April 7 Order for Appeal filed in the Circuit Ct. for Baltimore
County by Robert W. Cannon, Esq., on behalf of Petitioners.
April 9 Certificate of Notice sent to interested parties.
April 17 Petition to accompany Order for Appeal filed in the Cir-
cuit Court for Baltimore County
May 8 Motion to Extend Time to Transmit Record to Aug. 1, 1986.
August 1 Transcript of testimony filed
People's Counsel's Exhibits 1 thru 10 - Photographs of
subject property and surrounding area.
Petitioners' Exhibit No. 1 - Plat, 1/28/86, Doug Griffith
property
" " 2 - Copy of 200 scale zoning map
showing property outlined in red.
" " 3 - William Kirwin's qualifications
as a land planner
" " 4 - Site plan dated 12/21/81,
revised 12/28/81
" " 5 - Qualifications of John Wes
Guckert as traffic engineer.
" " 6 - A thru I, series of nine
photos showing subj property and
surrounding area.

Robert W. Mockard, et al
Case No. R-56-303

August 1, 1986 Record of proceedings filed in the Circuit Court for
Baltimore County.

Record of proceedings pursuant to which said Order was
entered and said Board acted are permanent records of the Zoning Department of
Baltimore County, and your respondents respectively suggest that it would be
inconvenient and inappropriate to file the same in this proceeding, but your
respondents will produce any and all such rules and regulations whenever
directed to do so by this Court.

Respectfully submitted,

John Holman
John Holman
County Board of Appeals of Baltimore
County

cc: Robt. W. Cannon, Esq.
Phyllis C. Friedman
Stanley H. Miller, Esq.

IN THE MATTER OF
ROBERT W. MOCKARD, ET AL
FOR RECLASSIFICATION OF
PROPERTY LOCATED AT
HARFORD ROAD AND FIRST
AVENUE FROM BL-CS-2 TO
BM-CS-2
11th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Docket No.: 24
Folio No. 102
File No.: 86-CG-1262

ANSWER TO PETITION ON APPEAL

Robert W. Mockard, Steven R. Griffith, Saied Manocheh,
Mohamad Pakoaman, Mohammed Manochah, Ezzatollah Vahedi-Faridi,
Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their
successors, Appellants in this case (hereinafter "Appellants"),
by their attorney, Robert W. Cannon, answer the Petition on
Appeal entered by Michael D. Eck in the above-entitled matter,
as follows:

1. Appellants deny Paragraph 1.
2. Appellants deny Paragraph 2.
3. Appellants deny Paragraph 3.
4. Because Paragraph 4 sets forth no additional
grounds under which the Appeal is taken or alleged error com-
mitted by the County Board of Appeals for Baltimore County,
Appellants deny Paragraph 4.

WHEREFORE, Appellants respectfully requests:

(a) That the appeal filed by People's Counsel for
Baltimore County be denied; and

(b) That the Court enter an Order affirming the Order
of the County Board of Appeals for Baltimore County to the
extent that such order grants reclassification of the subject
property from BL-CS-2 to BM-CS-2; and that said order be modi-
fied in part by deleting the conditioning phrase "for the spe-
cific purpose of expanding the existing used and new car deal-
ership"; and

(c) For such other and further relief as the nature
of their cause may require.

Robert W. Cannon
Robert W. Cannon
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816

Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Answer
to Petition on Appeal was heretofore served on the County Board
of Appeals of Baltimore County, whose action is appealed from,
by leaving a copy thereof with John Holman
at Room 200, Court House, Towson, Maryland
21204, on this 16th day of May, 1986.

WEINBERG AND GREEN
BALTIMORE, MD 21201

I HEREBY CERTIFY that a copy of the foregoing Answer
to Petition on Appeal was mailed to Stanley H. Miller, Esquire,
Knickerbocker Building, Suite 200, 218 E. Lexington Street,
Baltimore, Maryland 21202, on this 16th day of May, 1986.
Robert W. Cannon

WEINBERG AND GREEN
BALTIMORE, MD 21201

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT HARFORD *
ROAD AND EAST AVENUE FROM * FOR
BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ROBERT W. MOCKARD, ET AL * AT LAW
Plaintiffs * DOCKET NO. 24, FOLIO NO. 102
ZONING FILE NO. R-86-303 * FILE NO.: 86-CG-1262

MOTION TO EXTEND TIME TO TRANSMIT RECORD

Now comes Michael D. Eck, Appellant, by his Attorney, Stanley H. Miller and respectfully represents unto YOUR HONOR:

1. An Appeal was filed on April 4, 1986 by your Movant and subsequent Appeals have been filed by the People's Counsel and by Griffith Chrysler Plymouth.

2. That the parties are presently attempting to resolve all issues in the instant case.

3. That the Transcript of Testimony can be ordered and made ready upon thirty days notice.

4. That all parties have been notified and indicate that they have no objection to the extension of time for the transmittal of the record for a period of ninety days.

WHEREFORE, it is respectfully prayed that the time within which to transmit the transcript and the record of this proceeding be extended for a period of ninety days in accordance with Rule B-7.

STANLEY H. MILLER
Knickerbocker Building, Suite 200
218 E. Lexington Street
Baltimore, Maryland 21202
752-6203
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the MOTION TO EXTEND TIME TO TRANSMIT RECORD was served upon the County Board of Appeals of Baltimore County, Room 200, Court House, Baltimore, Maryland 21204 on the 1st day of May, 1986 and that a copy of same was mailed to Robert W. Cannon, Esquire, 100 South Charles Street, Baltimore, Maryland 21201, Attorney for the Petitioners below and to People's Counsel, Room 223, Court House, Towson, Maryland 21204 on the 1st day of May, 1986.

STANLEY H. MILLER

STANLEY H. MILLER
KNICKERBOCKER BUILDING, SUITE 200
218 E. LEXINGTON ST.
BALTIMORE, MD. 21202-3588
PHONE 752-6203

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT HARFORD *
ROAD AND EAST AVENUE FROM * FOR
BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ROBERT W. MOCKARD, ET AL * AT LAW
Plaintiffs * DOCKET NO. 24, FOLIO NO. 102
ZONING FILE NO. R-86-303 * FILE NO.: 86-CG-1262

ORDER

It is this 8th day of May, 1986, by the Circuit Court Court for Baltimore County,

ORDERED that the time to transmit record of appeal be and it is hereby extended until the 1st day of August, 1986.

15/ Nickerson
JUDGE

FILED
COUNTY CLERK
MAY 12 1986
R-86-303

STANLEY H. MILLER
KNICKERBOCKER BUILDING, SUITE 200
218 E. LEXINGTON ST.
BALTIMORE, MD. 21202-3588
PHONE 752-6203

IN THE MATTER OF * IN THE CIRCUIT COURT
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * FOR BALTIMORE COUNTY
PROPERTY LOCATED AT *
HARFORD RD. & EAST AVE. * AT LAW
FROM BL-CS-2 TO BM-CS-2 * Docket No. 24
11th District *
ROBERT W. MOCKARD, ET AL, * Folio No. 102
PLAINTIFFS * File No. 86-CG-1262
ZONING FILE NO. R-86-303

ANSWER TO PETITION ON APPEAL

People's Counsel for Baltimore County, Protestant below and Appellant herein, answers the Petition on Appeal in the above-entitled matter, as follows:

1. Appellant denies Paragraph 1.
2. Appellant denies Paragraph 2.
3. Appellant admits Paragraph 3.
4. Appellant denies Paragraph 4 insofar as it is intended to support a request that the zoning reclassification be granted unconditionally.

WHEREFORE, People's Counsel respectfully requests:

- a. That the appeal filed by Robert W. Mockard, et al be denied; and
- b. That the Court enter an Order denying the zoning reclassification; and
- c. For such other and further relief as the nature of the case requires.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

- 2 -

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2166

I HEREBY CERTIFY that on this 2nd day of April, 1986, a copy of the foregoing Answer to Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, MD 21204; and a copy was mailed to Robert W. Cannon, Esquire, 100 S. Charles St., Baltimore, MD 21201; and Stanley H. Miller, Esquire, Knickerbocker Bldg., Suite 200, 218 E. Lexington St., Baltimore, MD 21202.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF * IN THE
ROBERT W. MOCKARD, ET AL *
FOR RECLASSIFICATION OF * CIRCUIT COURT
PROPERTY LOCATED AT *
HARFORD ROAD AND EAST AVENUE * FOR
FROM BL-CS-2 TO BM-CS-2 * BALTIMORE COUNTY
11th DISTRICT *
ZONING FILE NO. R-86-303 * DOCKET NO. 24
Folio No. 102
File No. 86-CG-1262

PETITION PERFECTING APPEAL FROM ACTION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Robert W. Mockard, Steven R. Griffith, Saied Manocheh, Mohamad Pakdaman, Mohammad Manocheh, Ezzatollah Vahedi-Faridi, Mohammad-Hossein Tehranian, Mobil Oil Corporation, and their successors, Appellants in this case, (hereinafter "Appellants"), by their attorney, Robert W. Cannon, respectfully represents unto Your Honor:

1. That Appellants were the petitioners for the reclassification granted subject to condition in this case by the County Board of Appeals for Baltimore County (the "Board") and have a direct and immediate interest in the subject matter of the appeal herein, which interest has been adversely affected by the action of the Board, to their special harm and damage; and that Appellants are directly aggrieved by the Opinion and Order of the Board, from which they entered the subject appeal, as hereinafter set forth;

2. That pursuant to the provisions of Subtitle B of Chapter 1100 of the Maryland Rules of Procedure, Appellants

WEINBERG AND GREEN
BALTIMORE, MD. 21201

heretofore entered with this Court an appeal from the Order passed by the Board at its March 6, 1986 meeting; and that this Petition, setting forth the action appealed from, the error committed by the Board in taking such action, and the relief sought by Appellants, is designed to perfect such appeal in accordance with the requirements of said Maryland Rules of Procedure;

3. That by its Opinion and Order passed on March 6, 1986, a copy of which is attached to this Petition and incorporated herein by reference, the Board granted, subject to condition, Appellants' request for reclassification of the subject property from BL-CS-2 to BM-CS-2;

4. That the aforesaid March 6, 1986 Opinion and Order of the Board is illegal, invalid and erroneous to the extent that said Opinion and Order conditioned reclassification of the subject property from BL-CS-2 to BM-CS-2 "for the specific purpose of expanding the existing used and new car dealership." Opinion and Order at 4.

WHEREFORE, the Appellants respectfully pray:

(a) That the Order of the County Board of Appeals for Baltimore County be affirmed to the extent that said Order grants reclassification of the subject property from BL-CS-2 to BM-CS-2; and, that said Order be modified in part by deleting the conditioning phrase "for the specific purpose of expanding the existing used and new car dealership"; and,

- 2 -

(b) For such other and further relief as the nature of their cause may require.

Robert W. Cannon
Robert W. Cannon
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8816
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition was heretofore served on the County Board of Appeals of Baltimore County, whose action is appealed from, by leaving a copy thereof with June Holman, at Room 200, Court House, Towson, Maryland 21204, this 2nd day of April, 1986.

Robert W. Cannon

WEINBERG AND GREEN
BALTIMORE, MD. 21201

- 3 -